

M536GIA1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

20 Cr. 160 (MKV)

5 LISA GIANNELLI,

6 Defendant.

Trial

7 -----x
8 New York, N.Y.
May 3, 2022
9: 50 a.m.

9 Before:

10 HON. MARY KAY VYSKOCIL,

District Judge

11 APPEARANCES

12 DAMIAN WILLIAMS

13 United States Attorney for the
14 Southern District of New York

15 BY: SARAH MORTAZAVI

BENJAMIN A. GIANFORTI

Assistant United States Attorneys

16 FASULO, BRAVERMAN & DiMAGGIO, LLP

Attorneys for Defendant Giannelli

17 BY: LOUIS V. FASULO

18 Also Present: Karline Jung, USDA Paralegal

21 Anthony Imperatore, USDA Paralegal

22 Sean McCabe, Defense Paralegal

23 Mattison Stewart, Defense Intern

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(Trial resumed; jury not present)

THE COURT: Good morning. Please be seated, everyone.

MR. FASULO: Ms. Giannelli is going to the bathroom.

THE COURT: Okay. We'll wait for her to get back.

MR. FASULO: Judge, while we're waiting, on an unrelated matter to anything substantive, my request would be that the way the courtroom is set up and where Ms. Giannelli is sitting, at times, she can't see the witness because of the screen, obviously, that the reporter needs, and we understand the necessity of that. I don't have a problem. My only request is that at certain points, can she sit behind us if that's okay and move around?

(Discussion off the record)

THE COURT: Very good. Nothing else we need to discuss?

MS. MORTAZAVI: Nothing, your Honor.

MR. FASULO: Nothing.

THE COURT: Ms. Dempsey, do you want to bring our jury out?

MR. GIANFORTI: Should we bring the witness out first, Judge?

THE COURT: No. I think I prefer to get the jurors out. Thank you.

And we're with Mr. Flynn; is that right?

MR. GIANFORTI: That's right, Judge.

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Flynn - Direct

1 (Jury present)

2 THE COURT: Please be seated, everyone.

3 Good morning, ladies and gentlemen. Would someone
4 please retrieve our witness, Mr. Flynn?

5 Good morning. You may be seat. And I remind you,
6 sir, you remain under oath.

7 THE WITNESS: Yes, your Honor.

8 THE COURT: Mr. Gianforti.

9 CONOR FLYNN, resumed.

10 DIRECT EXAMINATION CONTINUED

11 BY MR. GIANFORTI:

12 Q. Good morning Mr. Flynn.

13 A. Good morning.

14 Q. Mr. Flynn, did there come a time when you were charged with
15 crimes related to your use of performance enhancing drugs on
16 racehorses?

17 A. Yes. I was arrested March 9, 2020.

18 Q. What did you decide to do after you were arrested?

19 A. Come to a point in time where I decided to cooperate.

20 Q. Approximately, when did you start cooperating with the
21 government?

22 A. September of 2020.

23 Q. As part of your cooperation, did you meet with prosecutors
24 from the United States Attorney's Office?

25 A. Yes.

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Flynn - Direct

1 Q. Had you met with me previously?

2 A. Yes.

3 Q. Approximately, how many times have you met with the
4 government?

5 A. I'd say approximately a dozen times.

6 Q. Did there come a time when you entered into a cooperation
7 agreement with the government?

8 A. Yes.

9 MR. GIANFORTI: Ms. Jung, can you please pull up for
10 the witness but not for the jury what's been marked for
11 identification as Government Exhibit 11001?

12 Q. Mr. Flynn, do you recognize the document that's displayed
13 on your screen right now?

14 A. Yes.

15 Q. What is it?

16 A. My cooperation agreement.

17 Q. Did you sign this agreement?

18 A. Yes.

19 Q. When did you sign it?

20 A. September 29, 2020.

21 Q. Did you plead guilty to any crimes after you signed this
22 agreement?

23 A. Yes.

24 Q. What crimes did you plead guilty to?

25 A. One count to misbrand and adulterated drugs for use to

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Flynn - Direct

1 covertly dope racehorses.

2 Q. And what did you do that made you guilty of that crime,
3 sir?

4 A. I acquired drugs without prescriptions, acquired false
5 prescriptions, and essentially doped racehorses with them.

6 Q. Did you take steps to avoid getting caught while you were
7 committing that crime?

8 A. Yes.

9 Q. To avoid being caught by who?

10 A. Racing officials.

11 Q. Under the terms of this agreement, Mr. Flynn, what are you
12 required to do?

13 A. I'm required to truthfully disclose any information, attend
14 all meetings, truthfully testify at any trials, and also commit
15 no further crimes.

16 Q. Are you -- are you required to testify here today under
17 your agreement?

18 A. Yes, sir.

19 Q. If you hold up your obligations under this agreement, what
20 is it you understand the government will do for you?

21 A. My understanding would be they would submit a letter to the
22 judge with all the good things I've done and also the bad
23 things I've done in my life, and it would be up to him to
24 determine my sentencing.

25 Q. When you say him, who do you mean?

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Flynn - Direct

1 A. The judge overseeing my case.

2 Q. Is that letter you're referring to sometimes referred to as
3 a 5K letter?

4 A. Yes, I believe so.

5 Q. Mr. Flynn, apart from your use of misbranded and
6 adulterated drugs for racehorses, did you tell the government
7 about other crimes you've committed?

8 A. Yes.

9 Q. Did that include your use and sale of marijuana?

10 A. Yes.

11 Q. Approximately how many times have you used marijuana?

12 A. I would say pretty frequently in my younger years, 2008,
13 2009.

14 Q. Approximately how many times have you sold marijuana?

15 A. On a few occasions.

16 Q. Were you paid when you sold the marijuana?

17 A. Yes.

18 Q. Have you used cocaine in the past?

19 A. Yes.

20 Q. Approximately how many times?

21 A. I'd say maybe 15 times.

22 Q. Have you personally used prescription medication in the
23 past without a valid prescription?

24 A. Yes. On a few occasions.

25 Q. Have you ever been charged with any of these crimes that we

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Flynn - Direct

1 just went over?

2 A. No, sir.

3 Q. Did you voluntarily tell the government about those crimes?

4 A. Yes.

5 Q. If you live up to your obligations under this agreement,
6 what is it that you expect the government will do with respect
7 to those crimes?

8 A. I don't believe I'll be prosecuted, but they'll be turned
9 over to the judge at sentencing.

10 Q. So as far as you're aware, the sentencing judge will be
11 made aware of those crimes?

12 A. Yes.

13 Q. As you sit here today, have you been guaranteed a 5K letter
14 from the government?

15 A. No.

16 Q. Under this agreement, does the outcome of this trial matter
17 at all in the decision -- in the government's decision to issue
18 a 5K letter?

19 A. No.

20 Q. If you lie on the stand today and Lisa Giannelli is
21 ultimately convicted, what happens to your cooperation
22 agreement?

23 A. Essentially, it will go away, and I'll have to plead guilty
24 to this crime.

25 Q. Will you get a 5K letter in that case?

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Flynn - Direct

1 A. No.

2 Q. If you lie on the stand, could you be prosecuted for any
3 additional crimes?

4 A. Yes. I believe I could be prosecuted for perjury.

5 Q. If you lie on the stand, do you get to take your plea back?

6 A. No.

7 Q. And, Mr. Flynn, if you could keep your voice up and pull
8 the mic in? It's for the court reporter's benefit the jury's
9 benefit.

10 Mr. Flynn, if you tell the truth on the stand today
11 but the defendant is acquitted, do you still get a 5K letter?

12 A. Yes.

13 Q. What's the maximum sentence you could face?

14 A. I face up to five years.

15 Q. Have you been sentenced yet?

16 A. No.

17 Q. As you sit here today, have you been promised any
18 particular sentence by the government?

19 A. No.

20 Q. Who decides your sentence, sir?

21 A. The judge that's overseeing my case.

22 Q. Mr. Flynn, apart from the criminal conduct that we just
23 discussed, did there come a time when you were suspended from
24 racing in Saratoga, New York, for a period of time?

25 A. Yes.

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Flynn - Direct

1 Q. When was that, approximately?

2 A. I believe 2012, 2013.

3 Q. And what happened exactly?

4 A. I got a positive test on a horse for a TCO2 overage, which
5 would be baking soda.

6 Q. Mr. Flynn, I believe you testified yesterday that your
7 understanding is that giving baking soda to a horse will reduce
8 lactic acid in the horse's system, and thereby help their
9 endurance. Is that a fair summary of your testimony?

10 A. Yeah. That's my understanding.

11 Q. So in that sense, did you give baking soda to that horse in
12 order to improve its performance?

13 A. Yes.

14 Q. To the best of your knowledge, what are the rules with
15 respect to administering baking soda to a racehorse in
16 New York?

17 MR. FASULO: Time frame.

18 Q. Sorry. During your time as a racehorse trainer --

19 THE COURT: Thank you.

20 Q. -- what was your understanding of the rules in New York
21 State in administering baking soda to a racehorse?

22 A. I don't believe it could be administered on race day.

23 Q. And in this case, the one from Saratoga, did you, in fact,
24 give the horse baking soda on race day?

25 A. Yes.

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Flynn - Direct

1 Q. How long were you suspended for?

2 A. I believe I was suspended for six months just from that
3 particular track.

4 Q. Okay. So not for the state as a whole?

5 A. Not for the state. It was just a track test.

6 Q. Mr. Flynn, did there come a time when you were suspended
7 from racing in New Jersey for a period of time?

8 A. Yes.

9 Q. When was that approximately?

10 A. I got a positive test in 2013, but my suspension wasn't
11 finalized until about 2015.

12 Q. What did you get a positive test for?

13 A. Dexamethasone.

14 Q. What is dexamethasone?

15 A. It's anti-inflammatory drug.

16 Q. Why did you give dexamethasone to your horse?

17 A. To reduce inflammation in the horse.

18 Q. Did you do it to improve the horse's performance?

19 MR. FASULO: Objection. Leading.

20 THE COURT: No. That's not leading.

21 Q. You can answer the question.

22 A. Yeah, I would say.

23 Q. To the best of your knowledge, during the period of time
24 that you were a racehorse trainer, what were the rules with
25 respect to administering dexamethasone in New Jersey?

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Flynn - Direct

1 A. I believe it was -- had to be given 48 hours out.

2 Q. And in this case, did you give the dexamethasone within
3 48 hours of the race?

4 A. Yeah. I believe I gave it the night before.

5 Q. How long were you suspended for?

6 A. I think I received a 15-day suspension and maybe a fine.

7 Q. Did there come a time, sir, when you were suspended from
8 racing in Ohio for a period of time?

9 A. Yes.

10 Q. When was that?

11 A. That would have been in 2014.

12 Q. What happened there?

13 A. TCO2 overage. The same as in Saratoga.

14 Q. Baking soda?

15 A. Yes.

16 Q. To do the best of my knowledge during the period of time
17 when you were a racehorse trainer, what were the rules with
18 respect to administering baking soda to a racehorse in Ohio?

19 A. It couldn't be given on a day of the race.

20 Q. And in that case, did you give baking soda on the day of a
21 race?

22 A. Yes.

23 Q. How long were you suspended in Ohio?

24 A. I believe 30 days.

25 Q. Did there come a time when you were suspended in Kentucky

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Flynn - Direct

1 for a period of time?

2 A. Yes.

3 Q. When was that?

4 A. 2014.

5 Q. What happened?

6 A. I got a positive test for a drug called Ambroxol.

7 Q. What is Ambroxol?

8 A. It be like a drug to break up mucus, kind of like, open up
9 a horse's airway type drug -- break up mucus or open maybe a
10 horse's airway.

11 Q. Why did you give Ambroxol to the horse you were working
12 with in Kentucky?

13 A. Because it was sick prior to the race, and trying to speed
14 up the recovery process.

15 Q. Did you give the horse Ambroxol to improve its performance?

16 A. Yes.

17 Q. To the best of your knowledge, when you were a racehorse
18 trainer, what were the rules with respect to administering
19 Ambroxol to a racehorse in the state of Kentucky?

20 A. I believe it was a 72-hour withdraw time.

21 Q. Did you give the horse Ambroxol within 72 hours of a race?

22 A. Yes. I gave it too close.

23 Q. How long were you suspended for?

24 A. I believe that was 45 days.

25 Q. Mr. Flynn, you testified a bit about a drug called blood

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Flynn - Direct

1 builders. Do you remember that?

2 A. Yes.

3 Q. I believe you testified that in New York, blood builders
4 are prohibited outright for racehorses; is that what you said?

5 A. Yes.

6 Q. Have you ever given a blood builder to a racehorse in the
7 State of New York?

8 A. Yes.

9 Q. Have you ever given a blood builder in a state other than
10 New York?

11 A. Yes.

12 Q. I believe you also testified yesterday that in New York
13 State, during the years you were a racehorse trainer, you were
14 not allowed to give racehorses any drugs on race day; is that
15 what you said?

16 A. Yes.

17 Q. To the best of your knowledge, during your time, the time
18 when you were a racehorse trainer, did the other states in
19 which you held licenses have the same rules about giving drugs
20 the day of the race?

21 A. Yes. They all had similar rules.

22 Q. Have you ever given drugs to a racehorse in New York State
23 on the day of a race?

24 A. Yes.

25 Q. How about any other states in which you held licenses over

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Flynn - Direct

1 the years?

2 A. Yes.

3 Q. Sir, are you familiar with the term drenching?

4 A. Yes.

5 Q. What does that term mean to you?

6 A. Well, it would be a tube that would be administered through
7 a horse's nose that goes to the horse's stomach and attach a
8 funnel, and you could essentially pour in a liquid substance.
9 Essentially for something maybe a horse wouldn't eat or drink.

10 Q. Can you administer performance enhancing drugs using a
11 drench?

12 A. Yes.

13 Q. When would you do that typically?

14 A. Me personally, I would do it at the farm before the horses
15 left for the race.

16 Q. During your years as a racehorse trainer, was drenching a
17 horse with performance enhancing drugs permissible in the State
18 of New York?

19 A. No.

20 Q. Was it permissible in any of the states in which you held a
21 license?

22 A. No.

23 Q. Have you ever drenched a racehorse with performance
24 enhancing drugs on the day of a race in New York?

25 A. Yes.

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Flynn - Direct

1 Q. How about in the other states in which you were licensed?

2 A. Yes.

3 Q. Taking a step back, Mr. Flynn, during your time as a
4 racehorse trainer, did you violate the rules regarding
5 administering drugs to racehorses in all of the states in which
6 you held licenses?

7 A. Yes.

8 Q. Were you caught every time you violated the rules?

9 A. No.

10 Q. On the occasions that you gave racehorses drugs you were
11 not supposed to, where would you typically administer those
12 drugs?

13 A. At the farm.

14 THE COURT: Sustained. You need to lay a foundation.

15 MR. GIANFORTI: Yes.

16 Q. All right. Mr. Flynn, you testified a moment ago that you
17 administered drugs to racehorses in every state in which you
18 held licenses, drugs you weren't supposed to give; is that
19 right?

20 A. Yes.

21 Q. And you personally administered those drugs on some
22 occasions?

23 A. Yes.

24 Q. And for instance, in the State of New York, before a race,
25 where would you typically administer the drugs to the horse?

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Flynn - Direct

1 A. At the farm before we left for the races.

2 Q. Okay. What about in New Jersey?

3 A. Same thing. At the farm.

4 Q. Okay. What about all the other states you were licensed
5 in?

6 A. For most of my career, I was stabled at a farm. Maybe on a
7 couple of occasions. For a small period of time, I was stabled
8 at Saratoga racetrack, so I may have given some drugs there.

9 Q. But at the other states, you typically gave it at the barn?

10 A. Yes.

11 Q. Why would you administer the drugs at the barn rather than
12 at the racetrack?

13 A. Because not to get caught, there was a lot of racing
14 officials, security at the racetracks.

15 Q. What would happen if you were caught administering drugs to
16 a racehorse at the track?

17 A. You'd have penalties, fines, and suspensions.

18 THE COURT: You need to keep your voice up. You tend
19 to drop off at the end of your answers, so if you can try to
20 keep your voice up? All right?

21 THE WITNESS: Sorry.

22 Q. Pretend you're talking to somebody in the back of the room
23 even though you have a microphone.

24 Mr. Flynn, I am now going to show you what's been --
25 what is in evidence as Government Exhibit 10001.

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Flynn - Direct

1 MR. GIANFORTI: Ms. Jung, if you can pull that up?

2 Mr. Flynn, do you recognize this individual?

3 A. Yes.

4 Q. Who is it?

5 A. Lisa Ranger.

6 MR. GIANFORTI: Okay. And, Ms. Jung, you can take
7 that down.

8 Q. Mr. Flynn, how do you know Lisa Ranger?

9 A. She was working with my boss at the time when I started
10 working for Mr. Banca in 2015.

11 Q. The first time you met her, what was she doing?

12 A. Dropping off drugs or veterinary supplies at the barn.

13 Q. Approximately what year was that?

14 A. Early 2015.

15 Q. Mr. Flynn, what, if anything, did you know about
16 Lisa Ranger before you met her?

17 MR. FASULO: Objection.

18 THE COURT: Grounds?

19 MR. FASULO: Hearsay.

20 MR. GIANFORTI: Goes to reputation in the community.
21 State of mind.

22 THE COURT: Overruled.

23 A. I believe she was in the industry a long time and was maybe
24 married to a former trainer, driver, Bruce Ranger, that was
25 pretty reputable.

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Flynn - Direct

1 Q. How frequently -- and just to confirm. Mr. Flynn, this is
2 when you were at the Mount Hope Training Facility --

3 A. Yes.

4 Q. -- that you talked about yesterday?

5 A. Yes.

6 THE COURT: You need to slow down too. I am having a
7 hard time absorbing your questions.

8 MR. GIANFORTI: In my mind, I'm going slow, but I'll
9 slow down even further. All right.

10 Q. To confirm -- I'll stake a step bark.

11 Mr. Flynn, to confirm you met her at the Mount Hope
12 Training Facility; is that correct?

13 A. Yes.

14 Q. How frequently would she come to your barn at the
15 Mount Hope Training Facility?

16 A. I would say biweekly.

17 Q. What would generally happen when she came to your barn?

18 A. She would just drop off products to us.

19 Q. Do you recall her ever leaving samples of anything?

20 A. There were some samples that were in our office that
21 Mr. Banca said she left for him.

22 MR. FASULO: Objection.

23 MR. GIANFORTI: Coconspirator statement.

24 THE COURT: Hold on.

25 Sustained. The jury should disregard that last

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Flynn - Direct

1 answer, or at least the part what Mr. Banca said.

2 Q. Okay. Why don't we take a step back?

3 So you said you recalled her giving -- there being
4 samples at the barn -- sorry. Did she ever personally give you
5 a sample of anything?

6 A. No.

7 Q. Do you recall seeing any bottles of drugs that you didn't
8 recognize in the barn?

9 A. Yeah, there were a few that sat on the shelf for a while.

10 Q. Okay. Did you ever use any of those samples?

11 A. No.

12 Q. Why not?

13 A. I was told not to by my boss.

14 Q. Did he say why not to?

15 A. He wasn't sure if they would pass a drug test.

16 Q. How would Ms. Ranger typically deliver the drugs to your
17 barn?

18 MR. FASULO: Objection. If he knows, Judge.

19 THE COURT: Every question is if the witness knows.

20 MR. FASULO: From his own personal knowledge.

21 THE COURT: Do you want to rephrase the question,
22 please?

23 Q. To the best of your knowledge, did you personally witness
24 Lisa Ranger delivering drugs to your barn?

25 A. Yes.

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Flynn - Direct

1 Q. On the occasions when she delivers drugs to your barn and
2 you witnessed it, how did she deliver them?

3 A. She would drive to the barn and deliver them just packaged
4 up in cardboard boxes.

5 Q. What kind of car did Lisa Ranger drive?

6 A. She drove a Nissan Xterra.

7 Q. And when you observed her come to the barn, what was sort
8 of the process -- what would happen when she came?

9 A. Either I would meet her down by the car and get the
10 products, or she would leave them in our office if I was busy.

11 Q. How would they come packaged, the drugs?

12 A. Most of them were injectables in glass bottles, and there
13 were needles, syringes, stuff like that.

14 Q. Did you buy pills from Lisa Ranger?

15 A. Yes. I bought bleeder pills.

16 Q. How were those pills packaged when you bought them?

17 A. They come in -- like, I would say a sandwich baggy with
18 written directions on them.

19 Q. Okay. Did you ever assist Lisa Ranger with unloading
20 product from her car?

21 A. Occasionally I met her down by the car and receive it, the
22 products, from there.

23 Q. On the occasions when you helped her unload the car, were
24 you able to see inside of her car?

25 A. Yes.

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1 Q. What do you recall seeing?

2 A. Just more boxes similar to ones I was getting.

3 Q. How full would the car generally be?

4 MR. FASULO: Objection.

5 THE COURT: Sustained.

6 Q. When you observed her car, when you helped her unload the
7 car, how full was the car on those occasions?

8 MR. FASULO: Objection.

9 THE COURT: Sustained.

10 Q. Can you think of an example of a time when you unloaded
11 drugs for her?

12 A. Yes.

13 Q. Okay. And on that occasion, how full was her car?

14 A. I would say fairly full.

15 Q. And what do you mean by fairly full?

16 A. There were a good amount of boxes in there.

17 Q. Mr. Flynn, who was responsible for paying for the products
18 that Lisa Ranger delivered to your barn?

19 A. Mr. Banca.

20 Q. How was payment handed between Lisa Ranger and Mr. Banca?

21 A. Usually, she'd leave a bill, and then Mr. Banca would leave
22 an envelope on the desk the next time with a check in it.

23 Q. Did you ever see any of the bills that Lisa Ranger left for
24 Mr. Banca?

25 A. Yes.

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1 Q. What do you recall the bills looking like?

2 A. They were just an itemized bill on the top. It says
3 Equestology, maybe with a logo and an address out of Delaware.
4 It was itemized, it would say the product, quantity, price, and
5 total at the bottom. Standard bill.

6 Q. When you first started working for Mr. Banca in early 2015,
7 who handled ordering the products from Lisa Ranger?

8 A. Mr. Banca.

9 Q. Did there come a time when you began ordering directly from
10 Lisa Ranger?

11 A. Yes.

12 Q. When was that?

13 A. I'd say a couple months prior to me starting there.

14 Q. So sometime in 2015?

15 A. Yes.

16 Q. How did you order from her, usually?

17 A. Usually call or text the night before, and I would just
18 reorder products that previously were ordered.

19 Q. Okay. How did you decide what to reorder?

20 A. Well, we had a room where we kept all our drugs, I would
21 say, and depending on how many horses we had or what we used, I
22 would check, say, the inventory and either order more or less
23 of certain products.

24 Q. Mr. Flynn, on the occasions that you ordered drugs directly
25 from Lisa Ranger, did you consult with a veterinarian before

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Flynn - Direct

1 placing those orders?

2 A. No.

3 Q. Did you obtain a prescription before placing orders with
4 Lisa Ranger?

5 A. No.

6 Q. During Lisa Ranger's visits to Mount Hope, that you
7 observed, did you ever -- did she ever examine any of the
8 horses in your barn?

9 A. No.

10 Q. And, again, on the times that you observed her at the barn,
11 did she ever bring anyone with her to examine any of the horses
12 in your barn?

13 A. No.

14 Q. On the occasions when you ordered drugs from her, did she
15 ever ask for the names of any of the horses in your barn?

16 A. No.

17 Q. Did you ever tell Lisa Ranger which horses were receiving
18 which of the drugs you ordered from her?

19 A. No.

20 Q. Did Lisa Ranger ever ask you for a prescription when you
21 were ordering prescription drugs?

22 A. No.

23 Q. Was the barn you worked in at Mount Hope the only barn
24 there?

25 A. No. There was a few here barns there.

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1 Q. In addition to observing her at your barn, did you ever
2 observe Lisa Ranger going to the other barns at the facility?

3 A. Yes. She stopped at most of the barns at the facility.

4 Q. Which barns do you remember her visiting?

5 A. I would say she would come through go to Rick Dane's barn
6 then our barn would be the next one, then Bill and
7 Andrew Danzig's barn, and then the last barn would be
8 Renée Lards.

9 Q. And how often would she go visit those other barns?

10 A. I would say biweekly whenever she was there.

11 Q. Do you know if Lisa Ranger worked for or with anyone?

12 A. I believe she worked for Seth Fishman.

13 Q. What do you know about Seth Fishman?

14 A. He was kind of highly regarded in the horse industry for
15 getting drugs.

16 Q. What kind of drugs, sir?

17 A. Performance enhancing drugs.

18 Q. Have you ever met Dr. Fishman?

19 A. No.

20 Q. Did you ever see Dr. Fishman at Mount Hope?

21 A. No.

22 Q. To your knowledge, during the time you were at Mount Hope,
23 did Dr. Fishman ever examine any of the horses you worked with?

24 A. No.

25 Q. Mr. Flynn, are you familiar with the term exotics in the

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Flynn - Direct

1 context of ugh drugs for horses?

2 A. Yes. I would consider that maybe drugs that you couldn't
3 get from any veterinarian. You'd have to go to maybe a certain
4 person to get them.

5 Q. Did you ever purchase exotics from Lisa Ranger?

6 A. I would say maybe the bleeder pills and also a product
7 called ChemBlock.

8 Q. What are bleeder pills?

9 A. Bleeder pills would be pills to give to a horse to stop
10 them from bleeding. Horses that overexert themselves would
11 bleed in their lungs, and it affects their performance --
12 they'll have a poor performance if they bleed.

13 Q. Okay. Have you ever personally administered bleeder pills
14 to a racehorse?

15 A. Yes.

16 Q. Have you ever done so on race day?

17 A. Yes.

18 Q. To the best of your knowledge, during your time as a
19 racehorse trainer, was it permitted to administer bleeder pills
20 to a racehorse on race day in any of the states in which you
21 were licensed?

22 A. No.

23 Q. Did any of the horse you worked with have a prescription
24 for bleeder pills?

25 A. No.

M536GIA1

Flynn - Direct

1 Q. Did the bleeder pills you received from Lisa Ranger come
2 with any instructions?

3 A. It was written on the bag. I believe it said give eight
4 pills six to eight hours out.

5 Q. Six to eight hours from what, if you recall?

6 A. When they say out, that usually means before a race.

7 Q. All right. I believe you testified earlier that the
8 bleeder pills came in like a sandwich baggy; is that right?

9 A. Yes.

10 Q. In your experience during the time when you were a
11 racehorse trainer, did prescription drugs for racehorses
12 usually come in a sandwich baggy?

13 A. No.

14 Q. And I believe you testified a moment ago about buying a
15 product from Lisa Ranger called ChemBlock; is that right?

16 A. Yes.

17 Q. What is ChemBlock?

18 A. It would be a drug that would be injected into a horse's
19 joint to block the pain in that particular joint.

20 Q. Why would you administer ChemBlock to a racehorse?

21 A. To block the pain if a horse was sore.

22 Q. Would you give ChemBlock to enhance the horse's
23 performance?

24 A. Yes.

25 Q. Have you ever -- I think you said a moment ago that

M536GIA1

Flynn - Direct

1 ChemBlock is usually administered by a hypodermic needle?

2 A. Yes.

3 Q. Have you ever personally administered a horse with
4 ChemBlock?

5 A. No.

6 Q. Have you ever observed someone inject a horse with
7 ChemBlock?

8 A. Yes.

9 Q. Who?

10 A. Our veterinarian for our barn, Dr. Grasso.

11 Q. Approximately how many times have you seen him administer
12 ChemBlock to a racehorse?

13 A. I'd say about five times.

14 Q. On any of those occasions, do you recall Dr. Grasso's
15 demeanor as he was administered the ChemBlock?

16 A. He didn't like to administer it. It would kind of make a
17 horse uncomfortable. They would dig in their stall after.

18 Q. On the times that Dr. Grasso injected ChemBlock into a
19 horse you were working with, at what point in time did he do
20 that?

21 A. Usually the day before the race.

22 Q. And I think you said that you would see the horses digging
23 in their stalls --

24 A. Yes.

25 Q. When he would inject --

M536GIA1

Flynn - Direct

1 A. -- yeah, after.

2 MR. FASULO: Objection. Leading.

3 MR. GIANFORTI: I'm just repeating --

4 THE COURT: Hold on. Don't keep answering until I
5 rule, please. All right?

6 MR. GIANFORTI: Absolutely.

7 THE COURT: Don't argue with Mr. Fasulo. Let me look
8 at the transcript.

9 All right. And you cut each other off, so I don't
10 even know what the question is.

11 MR. GIANFORTI: Okay. I'll just move on, your Honor.
12 Thank you.

13 Q. Mr. Flynn, are you familiar with the term therapeutics in
14 the context of racehorse drugs?

15 A. Yes.

16 Q. What does that term mean to you?

17 A. I would say maybe like anti-inflammatory drugs, vitamins,
18 stuff like that.

19 Q. Are you familiar with a Banamine?

20 A. Yes.

21 Q. What is that?

22 A. Anti-inflammatory drug.

23 Q. Are you familiar with a drug that is often called -- are
24 you familiar with a drug that is sometimes called bute?

25 A. Yes.

M536GIA1

Flynn - Direct

1 Q. What is bute?

2 A. Also an anti-inflammatory drug.

3 Q. Have you ever purchased Banamine from Lisa Ranger?

4 A. Yes.

5 Q. Have you ever purchased bute from Lisa Ranger?

6 A. Yes.

7 Q. How is -- during your time as a racehorse trainer, how did
8 you typically administer Banamine to a racehorse?

9 A. With a needle and syringe and inject it.

10 Q. And during your time as a racehorse trainer, how did you
11 typically administer bute to a racehorse?

12 A. The same way.

13 Q. Are you familiar, sir, from your time as a trainer with the
14 rules in New York around the administration of therapeutics
15 like Banamine and bute to racehorses?

16 A. There was withdraw times, so I believe it was 48 hours
17 before the race.

18 Q. Have you ever personally administered a therapeutic drug to
19 a racehorse within that 48-hour withdraw time?

20 A. No. You mean close?

21 Q. Yes.

22 A. No.

23 Q. I'm sorry. Could you clarify?

24 A. No, I have not.

25 Q. Okay.

M536GIA1

Flynn - Direct

1 A. It's usually before the 48 hours.

2 Q. Okay. And during your time as a racehorse trainer, did any
3 of the horses you worked with have a prescription for Banamine?

4 A. No.

5 Q. How about bute?

6 A. No.

7 MR. GIANFORTI: All right. Ms. Jung, could you please
8 pull up Government Exhibits 1509, 1510, and 1511, which are in
9 evidence?

10 Q. Okay. Mr. Flynn, I'm showing you Government Exhibits 1509
11 through 1511, which are photographs of items seized from the
12 Mount Hope Training Facility on March 9, 2020.

13 Are you familiar with the item that's displayed in
14 these photographs?

15 A. Yeah. They look similar to bottles that were taken out of
16 our office.

17 Q. Okay. And focusing on Government Exhibit 1510, do you see
18 the bold text there in the center of the bottle?

19 A. Yes.

20 Q. What is that?

21 A. ACTH.

22 Q. Are you familiar with ACTH?

23 A. Yes.

24 Q. And during your time as a racehorse trainer, what was your
25 understanding of what ACTH was used for?

M536GIA1

Flynn - Direct

1 A. I believe it would help a horse's attitude.

2 Q. And what do you mean by that, sir?

3 A. Maybe, like, enhance their attitude or mood. A horse with
4 a poor attitude obviously wouldn't have a very good
5 performance.

6 Q. Did you ever purchase ACTH from Lisa Ranger?

7 A. I don't believe so.

8 Q. And focusing in on Government Exhibit 1509, can you make
9 out a logo on the bottle, sir?

10 A. Yes.

11 Q. What is it?

12 A. Looks like a horse.

13 Q. And focusing on Government Exhibit 1511, please, can you
14 make out a website on this bottle?

15 A. Yes. It says www.equi-tides.com.

16 Q. What's your understanding of how ACTH is typically
17 administered on a racehorse?

18 A. It would be injected with a needle and syringe.

19 Q. Did you ever personally inject ACTH into any of the
20 racehorses you worked with?

21 A. Yes.

22 Q. Did any of the horses you worked with have a prescription
23 for ACTH?

24 A. No.

25 MR. GIANFORTI: You can take that down, Ms. Jung.

M536GIA1

Flynn - Direct

1 And, Ms. Jung, can you now please pull up Government Exhibits
2 1507 and 1508, which are in evidence?

3 Q. All right. Mr. Flynn, these are photographs of other items
4 that were seized from the Mount Hope training facility on
5 March 9, 2020, and they're in evidence.

6 Mr. Flynn, do you recognize the item displayed in
7 these photographs?

8 A. They look similar to a bottle that could have been taken
9 from our barn.

10 Q. Okay. And focusing on Government Exhibit 1508, can you
11 make out a logo on that bottle?

12 A. Yes.

13 Q. What is it?

14 A. It's the same logo, a horse.

15 Q. Sir, did you ever buy this particular product from
16 Lisa Ranger as best you can recall?

17 A. No.

18 MR. GIANFORTI: You can take that down, Ms. Jung.
19 Thank you.

20 Q. Mr. Flynn, based on your experience and years as a
21 racehorse trainer, what's the most strenuous thing a racehorse
22 does?

23 A. I would say race day or racing.

24 Q. Is training the most strenuous thing a racehorse does?

25 A. No. It would be a lot lighter pace.

M536GIA1

Flynn - Cross

1 Q. In your experience and in your 10 years plus as a racehorse
2 trainer, did you ever win any money if your horse ran really
3 fast in training?

4 A. No.

5 Q. Did you win money if your horse ran really fast in a race?

6 A. Yes.

7 MR. GIANFORTI: No further questions.

8 THE COURT: Mr. Fasulo.

9 CROSS-EXAMINATION

10 BY MR. FASULO:

11 Q. Good morning.

12 A. Good morning, sir.

13 Q. You remember being asked some questions about an agreement
14 that you entered into with the government earlier?

15 A. Yes.

16 Q. And you entered into that agreement after you were arrested
17 at your home, correct?

18 A. Yes. I was arrested March 9.

19 Q. And after you had an opportunity to speak with your
20 counsel, correct?

21 A. Yes.

22 Q. And after you understood the penalties that you were facing
23 in this particular case?

24 A. Yes, sir.

25 Q. And you entered into that agreement in the hopes that when

M536GIA1

Flynn - Cross

1 the judge does sentence you, you will get a reduced sentence
2 from what you would get if you didn't enter into such an
3 agreement?

4 A. Yes, sir.

5 Q. That's your hope?

6 A. Yes. That's my hope.

7 Q. One of the things you have to do is to cooperate with the
8 government?

9 A. Yes.

10 Q. Testify truthfully?

11 A. Yes, sir.

12 Q. And disclose all of your prior bad acts?

13 A. Yes.

14 Q. So when you say you volunteered your prior criminal or
15 prior bad acts to the government during proffer sessions, you
16 did that because that was a requirement of the agreement that
17 you signed with the government?

18 A. Yes, that was a requirement.

19 Q. You didn't just do it because you wanted to?

20 A. Yes.

21 Q. Right. And you also stated that you were a trainer at the
22 mount -- you were a trainer at the Mount Hope stables?

23 A. I was an assistant trainer.

24 Q. As an assistant trainer, you worked under a trainer?

25 A. Yes.

M536GIA1

Flynn - Cross

1 Q. Who was that trainer?

2 A. Richard Banca.

3 Q. And do you know what Richard Banca's relationship, if any,
4 to Dr. Seth Fishman was?

5 A. No.

6 Q. Have you ever had any conversations with -- without the
7 content, have you ever had conversations with Mr. Banca
8 regarding his relationship with Seth Fishman?

9 A. No.

10 Q. Who was the vet that Banca used for the horses you were
11 overseeing as an assistant trainer in Mount Hope?

12 A. Dr. Grasso.

13 Q. Are you aware of any conversations with Dr. Grasso and
14 Dr. Fishman?

15 A. No.

16 Q. You don't know if they happened, and you don't know if they
17 didn't happen?

18 A. No.

19 Q. And when you saw a couple of products that you said weren't
20 products that you got from Lisa Ranger, do you remember seeing
21 a --

22 A. Yes, small bottles. Yes, sir.

23 Q. And do you know where those products came from?

24 A. Well, Mr. Banca told me that they were given to him by Ms.
25 Ranger and not to use them.

M536GIA1

Flynn - Cross

1 Q. Right. But the ones that you saw here, do you know where
2 they've been?

3 A. No.

4 MR. FASULO: Let me have -- can we have 1509? I'm
5 going to withdraw that question, just for clarity.

6 Q. Do you remember looking at these photographs a minute ago?

7 A. Yes.

8 Q. And you stated you did not purchase these products from
9 Lisa Ranger?

10 A. No. They're on the shelf in our barn for a while.

11 Q. And they were on the shelf before you came -- worked
12 with --

13 A. Not sure if was before or during, but they were there, and
14 I asked about them.

15 Q. Do you know where these products came from?

16 A. I don't personally, but Mr. Banca told me.

17 Q. So you don't personally know where they came from?

18 A. No, sir.

19 Q. And during the time that you were with Mr. Banca,
20 Dr. Grasso was the vet?

21 A. Yes. He was the veterinarian.

22 Q. He would facilitate the barn getting the necessary
23 medications for his animals, correct?

24 A. Yes.

25 Q. And when you administered any of the medications to the

M536GIA1

Flynn - Cross

1 horses in the barn, was Dr. Grasso available -- aware of the
2 administration of those, to your knowledge?

3 A. He provided medications, and he wasn't there when I
4 administered them.

5 Q. And when you say he provided the medications, do you know
6 where those medications came from that he provided?

7 A. No.

8 Q. Let me talk to you a little bit about as your time as a
9 trainer and what you did.

10 A. Yes.

11 Q. You were both a trainer and assistant trainer?

12 A. My trainer career went out of business. I took a job with
13 Mr. Banca as an assistant trainer.

14 Q. In your time as an assistant trainer or the time you
15 testified on direct as a trainer, how was it determined by the
16 trainers what the needs of the horses were as it related to
17 medications?

18 A. Different trainers used different things or different
19 veterinarians had different processes of doing things.

20 Q. And when the trainers needed medication, what was the
21 process for a trainer to get the medications that they deemed
22 necessary for their horses?

23 MR. GIANFORTI: Objection.

24 THE COURT: Sustained.

25 Q. During the time that you were at the Mount Hope stables?

M536GIA1

Flynn - Cross

1 THE COURT: Sustained. You need to lay a foundation
2 that there was a consistent practice.

3 MR. FASULO: Okay.

4 Q. Did you have a practice -- did you have a routine in terms
5 of obtaining medications for the horses that you were caring
6 for as a trainer? Let's just talk about the Mount Hope
7 stables.

8 A. Mr. Banca had a process that I followed.

9 Q. Okay. And what was that process?

10 A. Horses got treated, drenched, stuff like that, stumps
11 administered. Vets did vet work.

12 Q. I'm sorry?

13 A. Vets did vet work, and Mr. Grasso did work, and I just
14 don't understand the question, I guess, really.

15 Q. And where would the drugs that you would need to do what
16 you said you just did come from at that time?

17 A. Various people.

18 Q. Like where did you get them from during the time that you
19 were at Mount Hope? What were the sources for you?

20 A. I got them from Dr. Grasso, Lisa Ranger, Brandon Simpson,
21 and Mr. Banca may have had other people he dealt with
22 personally.

23 Q. Who would order the drugs, you or Mr. Banca?

24 A. I would order them -- usually reorder drugs that he used in
25 his program.

M536GIA1

Flynn - Cross

1 Q. So when you say reorder, you wouldn't establish a new
2 order, you would just refill what was --

3 A. Or refill. I wouldn't go off the beaten path of what was
4 already ordered.

5 Q. That's because you were the assistant trainer?

6 A. I was the assistant trainer.

7 Q. In the world of training horses, would it be your
8 understanding that the trainer himself, or herself, is the one
9 ultimately responsible for the care and wellbeing of the horse?

10 A. Yes. If there was a positive test for something,
11 essentially the trainer would be suspended, not myself.

12 Q. Or not the groomsman?

13 A. Not the grooms.

14 Q. No one but the trainer?

15 A. No one but the trainer. Yes, sir.

16 Q. Let me ask you specifically about -- you also testified
17 that you were actually suspended a number of times, correct?

18 A. Yes.

19 Q. You were suspended because you broke different track rules?

20 A. Track rules or racing commission rules.

21 Q. Or racing commission rules, right?

22 A. Yes.

23 Q. And you would agree with me each state has different
24 regulations, correct?

25 A. Yes.

M536GIA1

Flynn - Cross

1 Q. Some of them mirror each other?

2 A. Yes. Some of them mirror each other, but it --

3 Q. But each track and each state have their own regulations as
4 to the administering of drugs -- each track has differing rules
5 as to the time frame where it is permissible to administer
6 certain drugs to certain horses?

7 A. Yes. Certain therapeutics would be -- they may have
8 different time frames.

9 Q. In fact, during the time that you ordered from Lisa Ranger
10 while you're working at Mount Hope, you ordered a great number
11 of what would be considered vitamins, correct?

12 A. Yes.

13 Q. That that was the bulk of your order?

14 A. I would say so, yes.

15 Q. The reason you ordered those vitamins from her was the
16 price of the vitamins from Lisa Ranger, correct?

17 A. I wasn't -- she was -- that was an already established
18 relationship before I got there.

19 Q. How was the relationship between you and Ms. Ranger as it
20 relates to the ordering of those products?

21 A. Like I said, reorders quick.

22 Q. Were they delivered to you timely?

23 A. Yeah.

24 Q. Was she courteous to you when she delivered them to you?

25 A. Yes.

M536GIA1

Flynn - Cross

1 Q. Were the orders filled properly?

2 A. Yep.

3 Q. Was there anything about that relationship that questioned
4 Ms. Ranger's professionalism in terms of the delivering of --

5 A. No.

6 Q. -- those products?

7 THE COURT: Excuse me. You each need to let the other
8 finish. You keep stepping on the questions, and Mr. Fasulo,
9 you keep stepping on the answers.

10 THE WITNESS: Sorry, your Honor.

11 MR. FASULO: Very well.

12 Q. And, in fact, you never saw Lisa Ranger act in the role of
13 a veterinarian, correct?

14 A. No.

15 Q. You never saw her examine horses?

16 A. No.

17 Q. You never saw her give medical advice?

18 A. No.

19 Q. You saw her just deliver the pills, correct?

20 A. Yep.

21 Q. And leave the invoices?

22 A. Yes.

23 Q. Pick up the checks?

24 A. Yes.

25 Q. And then come back and do the same thing again?

M536GIA1

Flynn - Cross

1 A. Yes.

2 Q. And you also stated you knew of a person named Dr. Seth
3 Fishman, correct?

4 A. I knew of him.

5 Q. Right. You also stated on direct examination you knew
6 about his reputation, correct?

7 A. Yes. He had a reputation in the horse business.

8 Q. And when you say reputation, was that -- as far as you
9 know, what was that reputation?

10 A. He was pretty highly regarded between people that would
11 push the limits, I would say.

12 Q. Okay. What do you mean by push the limits?

13 A. Or give drugs that weren't permitted.

14 Q. And, in fact, let's talk a little bit about the drugs that
15 you were giving the horses yourself where you were suspended.

16 A. Yeah.

17 Q. At one track, the first time that you had an infraction was
18 in March of 2020, about; would that be fair to say?

19 A. Infraction for racing?

20 Q. Infraction as a trainer.

21 A. March of 2020, I was arrested.

22 Q. I'm sorry. In March 9 of 2020, there was an infraction
23 filed against you, correct?

24 A. Yes. I was arrested.

25 Q. And there was conduct detrimental to the best interest of

M536GIA1

Flynn - Cross

1 horseracing, correct?

2 A. Yes. I'm sorry --

3 Q. I'm sorry. My fault?

4 A. No, I thought you were talking about the arrest. Yes. My
5 license was revoked.

6 Q. And you got an indefinite suspension at that point?

7 A. Yes, sir.

8 Q. And prior to that, you also had an infraction date of
9 November 14, 2015; isn't that right?

10 A. Yes.

11 Q. And in that case, you were given a 15-day suspension,
12 correct?

13 A. Was that the one pertaining to New Jersey?

14 Q. Well, in that case it had to do with a horse, Every Mile
15 Memory.

16 A. Yes, that was from probably 2013, but it wasn't settled
17 until 2015.

18 Q. And in that case, what did you do?

19 A. I gave dexamethasone too close to the race.

20 Q. At that time you were a trainer?

21 A. Yes?

22 Q. And you were taking responsibility for your actions?

23 A. Yes.

24 Q. It was your decision to give that drug to the horse
25 ultimately?

M536GIA1

Flynn - Cross

1 A. Yes, it was.

2 Q. And you gave that drug to the horse understanding that it
3 was a violation of the rules of the track that you were at at
4 that time?

5 A. Yes.

6 Q. And it was against the New Jersey Racing Commission,
7 correct?

8 A. Yes. Gave it too close.

9 Q. After giving that drug, the horse tested positive, correct?

10 A. Yes.

11 Q. And you received a five-day suspension for that; do you
12 remember that?

13 A. Well, it was 15 years to 5 --

14 Q. Was it a full suspension, 5 days?

15 A. I think it was 15 days. To the best of my knowledge, it
16 was 15 days, but it could have been reduced.

17 Q. If I show you a list of your record, would that help to
18 refresh your recollection?

19 A. Yes.

20 MR. FASULO: Judge, may I approach?

21 THE COURT: Yes.

22 A. Oh, a \$500 fine, 15-day suspension. Oh, 5 days. Okay.
23 Yes. It was -- it must have been reduced.

24 Q. And in that case, you administered -- what was the drug you
25 administered to the horse?

M536GIA1

Flynn - Cross

1 A. Dexamethasone.

2 Q. What was that drug?

3 A. An anti-inflammatory.

4 Q. When you said it was anti-inflammatory, in your role as a
5 trainer, did that drug have any legitimate uses as you saw it
6 for the wellbeing of horses?

7 A. Yes.

8 Q. What would be the use of that drug in relationship to the
9 horses?

10 A. To reduce inflammation.

11 Q. And when would that be necessary?

12 A. Leading up to a race.

13 Q. And during a training, or vigorous training, could it be
14 administered at that time as well?

15 A. Yeah. You may want to administer it after training.

16 Q. And, in fact, there was a rule as to when it could be
17 administered in relationship to the timing of races, correct?

18 A. Yes.

19 Q. So it wasn't not allowed to be administered; it had to be
20 administered within the confines of the regulations as stated
21 by the track, correct?

22 A. Yes. I believe it was 48 hours, but I'm not positive.

23 Q. Okay. Can we go to the date of September of 2015. You had
24 a violation for leaving a horse unattended; do you remember
25 that?

M536GIA1

Flynn - Cross

1 A. Yes.

2 Q. And you were fined \$100, right?

3 A. Yes.

4 Q. And you paid that fine?

5 A. Yes.

6 Q. And then in February of 2015, you -- let me go -- withdraw
7 that.

8 In October of 2014, you had a horse, Irish Elitist; do
9 you remember that, sir?

10 A. Yes.

11 Q. Were you the trainer of that horse?

12 A. Yes, sir.

13 Q. And at that time, you administered a drug to that horse,
14 correct?

15 A. Yes.

16 Q. And what was the drug you administered to that horse?

17 A. Well, it was baking soda, so I don't know if you consider
18 that a drug or not.

19 Q. So baking soda, correct?

20 A. Yes.

21 Q. And where did you -- do you remember, you just bought that
22 baking soda at a --

23 A. Grocery store, pharmacy, somewhere, convenience store.

24 Q. Other than -- would you use the baking soda with the horses
25 on dates other than racing dates?

M536GIA1

Flynn - Cross

1 A. Me personally, I usually would not. Maybe occasionally if
2 a horse tied up, but other than it was mostly racing.

3 Q. But you knew that it was not permissible to use the baking
4 soda on the day of the races in accordance with the Ohio Racing
5 Commission, state racing commission?

6 A. Yes, sir.

7 Q. You decided to do that, correct?

8 A. Yes, sir.

9 Q. And, in fact, you were caught at that time; your horse
10 tested positive, correct?

11 A. Yes.

12 Q. And was that a random horse test, or did the horse place in
13 order to be tested?

14 A. I believe the horse was either first or second.

15 Q. Okay. And when the horse was first or second, you received
16 the benefit from that, right?

17 A. Yes. The owner would get the purse money.

18 Q. Right. And if the owner got the purse money, he would
19 split percentages to his team, correct?

20 A. Depends. It was either billed or some did percentage. The
21 trainer got 5 percent essentially on every horse.

22 Q. Were you a trainer at that time?

23 A. Yes, sir.

24 Q. I want to ask you about August of 2014, a horse Touch And
25 Go.

M536GIA1

Flynn - Cross

1 A. Yes.

2 Q. Do you remember that horse?

3 A. Yes.

4 Q. And do you remember racing that horse at the Red Mile?

5 A. Yes. In Kentucky.

6 Q. In Kentucky, right?

7 A. Yes.

8 Q. And at that time, your horse was disqualified, correct?

9 A. Yes. It had a positive test.

10 Q. It was disqualified because it was given a drug, Ambroxol?

11 A. Yes.

12 Q. What is Ambroxol, as far you know?

13 A. As far as I know, it would break up mucus, speed up the
14 recovery process. A horse was sick, it just would speed up the
15 recovery process.

16 Q. At that time when you gave the horse Ambroxol in 2014, you
17 didn't get that Ambroxol from Lisa Ranger, correct?

18 A. No, sir.

19 Q. Do you remember where you got that Ambroxol from?

20 A. I don't recall.

21 Q. Where would you get your drugs in 2014 that you used
22 illegal in these races?

23 A. Usually from a veterinarian in Ohio.

24 Q. And did Ambroxol have any other purpose -- did you know of
25 any legitimate purpose that Ambroxol had in dealing with the

M536GIA1

Flynn - Cross

1 horse's pain or the horse's performance?

2 A. My understanding is it just speeded up the process of
3 recovering from sickness, break up the mucus.

4 Q. Was this a drug that had a certain waiting period before a
5 race time to be administered?

6 A. Yeah. I think you would have to stop 72 hours. To the
7 best of my knowledge, 72 hours. But there was a time. Not
8 sure of the exact time.

9 Q. And you administered this drug within the period that was
10 prohibited, correct?

11 A. Yeah. I gave it too close towards the race.

12 Q. And in that infraction, you received a 30-day suspension;
13 is that right?

14 A. I believe so.

15 Q. And you received a fine of \$500, right?

16 A. Yes.

17 Q. And when you received the 30-day suspension, what did that
18 mean? Did that mean you can go back and train horses in
19 30 days, or does that mean you couldn't be on the track in
20 30 days? What did you understand that suspension to be?

21 A. Well, you couldn't enter any horses for 30 days.

22 Q. At that track?

23 A. Or -- well, if it was USC, then anywhere.

24 Q. Were you able to train horses -- were you still working?

25 A. Yes, I still had horses.

M536GIA1

Flynn - Cross

1 Q. And you were still getting paid, right?

2 A. Yes.

3 Q. Let me ask you about one more infraction. In November of
4 2015, you were at the Freehold Racetrack, correct?

5 A. Yes.

6 Q. And you were racing a horse called Every Mile Memory,
7 correct?

8 A. It would have been in 2013. It got finalized --

9 Q. In '15?

10 A. In '15. So it could have been before the violations in
11 Ohio and Kentucky.

12 Q. Again, your horse tested positive?

13 A. Yes. That was the dexamethasone.

14 Q. In all the cases where you received the infraction, it was
15 your decision to administer the drug to that horse at that
16 time?

17 A. Yes.

18 Q. And you could have decided not to administer it within the
19 prohibited period of time?

20 A. Yes.

21 Q. That was solely your decision?

22 A. Yes.

23 Q. Okay. You didn't consult with Ms. Ranger when you were
24 going to administer that drug, did you?

25 A. No.

M536GIA1

Flynn - Cross

1 Q. Let me ask you about drenching.

2 A. Yes.

3 Q. Can you tell the jury what that is again?

4 A. Well, it would be a small rubber hose that would be entered
5 in a horse's mouth and go into the horse's stomach, and you
6 could administer fluids that way.

7 Q. When you say fluids, would those fluids include supplements
8 and vitamins?

9 A. Yes.

10 Q. And would you use the drenching method to give the horse
11 supplements and vitamins at times?

12 A. Yes. After racing or training, I might drench them with
13 vitamins and electrolytes.

14 Q. In fact, when you did that, and it wasn't a racing day and
15 it wasn't in the time frame prohibited by a track, that was
16 allowed, correct?

17 A. Yeah, I believe it was allowed.

18 Q. Well, was it or was it not allowed?

19 A. I think so.

20 Q. Okay. And bleeder pills, you talked about bleeder pills?

21 A. Yes.

22 Q. Every horse will react different to strenuous activity; is
23 that fair to say?

24 A. Yes.

25 Q. And sometimes due to strenuous activity after a race, a

M536GIA1

Flynn - Cross

1 horse may bleed, correct?

2 A. Yeah.

3 Q. And the blood comes from the nose of the horse?

4 A. You may see it, or you have to use a scope or camera to see
5 it.

6 Q. When the horse is bleeding like that, one of the purposes
7 of a bleeder pill, if you know, is to stop the bleeding,
8 correct?

9 A. Yes.

10 Q. And that's a legitimate use of bleeder pills, correct?

11 A. Yes.

12 Q. And it does help to reduce the pain of the horses?

13 A. Yes.

14 MR. GIANFORTI: Objection.

15 Q. As far as you know. If you know.

16 THE COURT: Overruled. You can answer.

17 A. Yes. I would give it to the horse on race day to stop them
18 from bleeding.

19 Q. There's nothing prohibited about using bleeder pills in
20 that matter post-race, correct?

21 MR. GIANFORTI: Objection.

22 THE COURT: Hold on. When there is an objection, you
23 have to wait for me to rule on it.

24 What's your ground?

25 MR. GIANFORTI: Foundation. Time period.

M536GIA1

Flynn - Cross

1 THE COURT: Overruled. You can answer.

2 The question -- can you read the question back,
3 please?

4 MR. FASULO: For simplicity, I'll withdraw the
5 question and re-ask the question.

6 Q. In the post-race scenario, there would be nothing
7 prohibited by law of you administering bleeder pills to a horse
8 in need; would that be true?

9 A. It would be true, but it would not be something I would do.

10 Q. All right. But you have given bleeder pills to horses?

11 A. Yes. Before they bled, not after.

12 Q. And have you given them during the training process of the
13 horses?

14 A. No.

15 Q. Let me ask you about -- you talked about Ranamine. Do you
16 remember that?

17 A. About -- excuse me?

18 Q. Branamine, bute.

19 A. Bute, Banamine. Yes. Sorry.

20 Q. What is your understanding of bute?

21 A. It would be the same class, like dexamethasone,
22 anti-inflammatory-type drugs that would be given with a
23 withdraw time.

24 Q. If it's given within the proper withdraw time, there's
25 nothing prohibited about the use of that bute; is that fair to

M536GIA1

Flynn - Cross

1 say?

2 A. Yes.

3 Q. And have you given bute to horses?

4 A. Yes.

5 Q. And have you given it within the prescribed withdraw time?

6 A. You mean further?

7 Q. Yes.

8 A. Yes. I've given it outside of the 48 hours.

9 Q. Right. Let me ask you about blood builders.

10 A. Yes.

11 Q. What is your understanding of blood builders?

12 A. My understanding, it would build a horse's red blood cells.

13 Q. And in your time as a trainer, assistant trainer or
14 trainer, as you testified here today, have you administered
15 blood builders to horses?

16 A. Yes.

17 Q. And when was it that you administered blood builder to your
18 horses?

19 A. You mean the time frame or like --

20 Q. Anytime during the time you testified that you were a
21 trainer or assistant trainer at Mount Hope.

22 A. They were frequently given when you worked at Mount Hope.

23 Q. When you say frequently given, they were given at the barn?

24 A. Yes.

25 Q. They were given not on race day?

M536GIA1

Flynn - Cross

1 A. Yes. It was usually probably three days before a race.

2 Q. And was it your understanding that if it was given within a
3 prescribed period of time, the withdraw period of time, it was
4 okay to give it to the horse?

5 A. I don't believe there was a withdraw time for -- per se. I
6 used Epogen, so there was no withdraw time for that.

7 Q. And it was your decision to give it to the horse at that
8 time, correct?

9 A. My boss' decision, but yes.

10 Q. And how about when you were a trainer and you had the
11 ultimate decision?

12 A. Yeah. It would be your decision when you give something.

13 Q. Right. And sometimes you would give it to a horse that
14 wouldn't even race -- that ended up not even racing, correct?

15 A. Yes.

16 Q. And prior to giving that drug, did you have any
17 conversations with Ms. Ranger, Ms. Giannelli, regarding when
18 and how you were going to administer any of the drugs that you
19 talked about here today?

20 A. No.

21 MR. FASULO: One moment, your Honor.

22 THE COURT: Sure.

23 Q. Mr. Flynn, is your hope after testifying here today
24 truthfully that you will give -- you will get a 5K letter from
25 the government?

M536GIA1

Flynn - Redirect

1 A. Yes.

2 Q. And that at the time you go in front of your judge for
3 sentencing?

4 A. Yes.

5 Q. That the judge will look at that 5K letter, evaluate it?

6 A. Yes.

7 Q. And give you a much lesser sentence than the five years
8 that you currently face?

9 A. Yes. My hope is to get a reduced sentence.

10 MR. FASULO: Very well. No further questions.

11 THE WITNESS: Thank you, sir.

12 THE COURT: Thank you. Redirect.

13 MR. GIANFORTI: Yes. Thank you, your Honor.

14 REDIRECT EXAMINATION

15 BY MR. GIANFORTI:

16 Q. Mr. Flynn, Mr. Fasulo asked you some questions about blood
17 builder. Do you remember that?

18 A. Yes.

19 Q. And I believe you testified on direct that, to the best of
20 your knowledge, during your time as a racehorse trainer, it was
21 never permitted to give blood builder to a racehorse in any of
22 the states you were licensed; is that right?

23 A. Yes.

24 Q. I believe you also testified that during your time as a
25 racehorse trainer, it was not permissible to give drugs to a

M536GIA1

Flynn - Redirect

1 racehorse on the day of a race in any of the states in which
2 you were licensed; is that correct?

3 A. Yes.

4 Q. And I believe Mr. Fasulo also asked you whether you gave
5 bleeder pills to any of your horses during training; do you
6 remember that?

7 A. Yes.

8 Q. I believe you said you never did give bleeder pills during
9 training; is that's correct?

10 A. No.

11 MR. FASULO: Objection.

12 THE COURT: Sustained. You can reorient the witness,
13 but you can't just reiterate is this what you said. The record
14 is what it is.

15 MR. GIANFORTI: Certainly, your Honor.

16 Q. Mr. Flynn, did you ever give any of the racehorses in your
17 care blood builder in connection with training?

18 A. No.

19 Q. Why not?

20 A. I would usually use Lasix or -- and it was a lot. Not as
21 strenuous of an exercise as training or racing, not as fast.

22 Q. Why would you give the horses in your care bleeder pills
23 before racing?

24 A. To prevent bleeding. It was a lot faster, quicker, more
25 strenuous exercise.

M536GIA1

Flynn - Redirect

1 Q. And do you recall Mr. Fasulo asking you about
2 dexamethasone?

3 A. Yes.

4 Q. And Ambroxol?

5 A. Yes.

6 Q. And do you recall him asking you about whether those drugs
7 have legitimate uses?

8 A. Yes.

9 Q. During your time -- to the best of your knowledge, during
10 the time you were a racehorse training, did those drugs require
11 a prescription?

12 A. I believe so.

13 Q. Did you ever have a prescription for those drugs?

14 A. I don't think so.

15 MR. GIANFORTI: Ms. Jung, if you could, would you
16 please pull up for Mr. Flynn Government Exhibits 1509, 1510,
17 and 1511?

18 Q. Mr. Flynn, do you remember asking questions about this
19 product on direct?

20 A. Yes.

21 Q. Do you recall Mr. Fasulo asking you questions about where
22 this drug came from, or your knowledge of where this drug came
23 from?

24 A. Yes.

25 Q. And can you just identify for the jury if you see a logo on

M536GIA1

Flynn - Redirect

1 this bottle?

2 A. Yes. It has a horse.

3 Q. Are you familiar with this logo?

4 A. I believe it was the same logo they used for Equestology.
5 That was on the bills.

6 Q. Mr. Flynn, do you recall testifying on direct about -- or
7 me asking you questions on direct about other crimes that you
8 committed?

9 A. Yes.

10 Q. Did you tell the government about your personal drug use
11 and other crimes before you signed the cooperation agreement?

12 A. I believe in the proffer that was disclosed.

13 Q. Are those crimes listed in your cooperation agreement?

14 A. Yes.

15 Q. So does that mean you told the government about those
16 crimes before signing it?

17 A. Like I said, I believe it was disclosed during a proffer.

18 MR. GIANFORTI: No further questions.

19 THE WITNESS: Thank you.

20 MR. FASULO: Nothing further, Judge.

21 THE COURT: All right, thank you very much, sir.

22 You're excused with the thanks of the Court.

23 THE WITNESS: Thank you very much, your Honor.

24 (Witness steps down.)

25 THE COURT: And the government's next witness?

M536GIA1

Hall - Direct

1 MR. GIANFORTI: The government calls Adrienne Hall.

2 THE COURT: All right.

3 (Pause)

4 THE COURT: Good morning, Ms. Hall. If you would
5 please take your mask off and stay standing on the witness
6 stand.

7 Ms. Dempsey.

8 ADRIENNE HALL,

9 called as a witness by the Government,
10 having been duly sworn, testified as follows:

11 DEPUTY CLERK: Can you raise your microphone so can
12 you speak into it?

13 Can you state and spell your name?

14 THE WITNESS: Adrienne Hall, A-D-R-I-E-N-N-E, H-A-L-L.

15 DIRECT EXAMINATION

16 BY MS. MORTAZAVI:

17 Q. Good morning, Ms. Hall.

18 A. Good morning.

19 Q. Can you tell us the city and state you currently live?

20 A. Cream Ridge, New Jersey.

21 Q. And just make sure the --

22 MR. FASULO: I couldn't hear, that, Judge.

23 THE WITNESS: Cream Ridge, New Jersey.

24 Q. Ms. Hall, I ask you to keep your voice up. It's a big
25 room. We want to make sure our court reporter can hear you.

M536GIA1

Hall - Direct

1 THE COURT: If you would pull the microphone a little
2 bit forward? That's better, I think. Thank you.

3 MS. MORTAZAVI: Thank you, your Honor. Pardon me.

4 Q. What do you currently do for a living?

5 A. I'm currently not working at the moment.

6 Q. How far did you go in school?

7 A. I have a bachelor's degree.

8 Q. In what?

9 A. Media communications.

10 Q. And where did you get that degree?

11 A. East Stroudsburg University.

12 Q. What year?

13 A. Graduated early 2000.

14 Q. What kind of work did you do after you graduated from
15 college?

16 A. After I graduated, I worked in real estate, and then I
17 worked in home finance.

18 Q. At any point have you owned any racehorses?

19 A. Yes.

20 Q. Were they standardbred or thoroughbred?

21 A. I've owned both.

22 Q. Have you ever worked as a racehorse trainer?

23 A. Yes.

24 Q. For thoroughbred or standardbred?

25 A. Standardbred.

M536GIA1

Hall - Direct

1 Q. When did you start racing horses as a trainer?

2 A. I got my trainer's license in December of 2017, and my
3 first full year of training was 2018.

4 Q. Have you continued to race horses as a trainer since you
5 first got your license in 2017?

6 A. Yes.

7 Q. When was your last race a licensed trainer?

8 A. December of '21.

9 Q. Are you familiar with a company called Equestology?

10 A. Yes.

11 Q. What's your understanding of the business Equestology is
12 engaged in?

13 A. They sell pharmaceutical products for horses.

14 Q. Have you met anyone from Equestology in person?

15 A. Yes.

16 Q. Who is that?

17 A. I met Dr. Seth Fishman.

18 Q. Have you had contact in any form with anyone else from
19 Equestology, even if it was not in person?

20 A. Yes.

21 Q. Who was that?

22 A. Lisa Giannelli.

23 Q. At the time, how did you know her?

24 A. Lisa Ranger.

25 Q. And how did you communicate with Lisa Ranger or

M536GIA1

Hall - Direct

1 Lisa Giannelli?

2 A. Phone, text, and e-mail.

3 (Continued on next page)

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M53BGIA2

Hall - Direct

1 BY MS. MORTAZAVI:

2 Q. Did you ever meet with her in person?

3 A. No.

4 Q. Prior to today's testimony, did there come a point in time
5 when you started meeting with prosecutors in this case?

6 A. Yes.

7 Q. And after meeting with the prosecutors, did you enter into
8 an agreement with the government?

9 A. Yes.

10 Q. Was that agreement in writing?

11 A. Yes.

12 Q. What did you call that agreement?

13 A. A non-prosecution agreement.

14 Q. What's your understanding of what you're required to do
15 under that agreement with the government?

16 A. To always be honest and to be available and to provide any
17 material needed.

18 Q. And if you do those things, what's your understanding of
19 what you will receive in return from the government?

20 A. In return I will not be prosecuted.

21 Q. Not prosecuted for what?

22 A. For giving my horses performance enhancing drugs.

23 Q. What's your understanding of what could happen to you if
24 you do not tell the truth today?

25 A. The contract would not be applicable.

M53BGIA2

Hall - Direct

1 Q. By contract, do you mean that non-prosecution agreement?

2 A. Yes.

3 Q. Is there anything else that could happen if you're not
4 truthful today?

5 A. I could be charged with perjury.

6 Q. I'm going to turn back, Ms. Hall, to the first time that
7 you received your trainers license, what agency issued you your
8 license?

9 A. So I had to first get a membership through the United
10 States Trotting Association.

11 Q. Is that sometimes called the USTA?

12 A. That's the USTA, yes.

13 Q. After you got that membership, what did you do?

14 A. Then I applied with Ohio State Racing Commission for my
15 trainer and owner license.

16 Q. What's your understanding at the time that you applied for
17 your license of what the Ohio State Racing Commission does?

18 A. They regulate horseracing and pari-mutuel wagering in the
19 state of Ohio.

20 Q. Other than Ohio over the course of your career, have you
21 obtained your trainers license in any other states?

22 A. Yes.

23 Q. Which ones?

24 A. Kentucky, Florida, New Jersey, New York and Pennsylvania.

25 Q. Did you have to apply for a trainers license in each of

M53BGIA2

Hall - Direct

1 those states?

2 A. Yes.

3 Q. I'm going to start with Florida.

4 Can you tell us what agency granted you your trainers
5 license in Florida?

6 A. The Florida Gaming Commission.

7 Q. What's your understanding of what that commission does?

8 A. They also regulate the rules and bi-laws of horseracing
9 pari-mutuel wagering.

10 Q. What about New York, what agency granted you your license
11 there?

12 A. The New York Gaming Commission.

13 Q. What's your understanding of what the New York Gaming
14 Commission does?

15 A. They also regulate horseracing and pari-mutuel wagering.

16 Q. With the other states that you mentioned, Kentucky, New
17 Jersey and Pennsylvania, did you apply for your trainers
18 license to a commission in each of those states?

19 A. Yes.

20 Q. And as far as you're aware, what do each of those state
21 commissions do?

22 A. They oversee horseracing. They make the rules. They punish
23 people that break the rules. They do investigations and things
24 like that.

25 Q. And is that the same with both Florida and New York?

M53BGIA2

Hall - Direct

1 A. Yes.

2 Q. As a result of being licensed in each state, do you have to
3 be familiar with the rules and regulations governing
4 horseracing in each state?

5 A. Yes.

6 Q. How did you come to learn those rules?

7 A. Every state has a website, their bi-laws are on their
8 website or there's pamphlets that you can pick up.

9 Q. Are there some commonalities across the rules for each of
10 the states that you're familiar with?

11 A. There are, yes.

12 Q. And do those rules include rules regarding administering
13 drugs to racehorses?

14 A. Yes.

15 Q. What's your understanding of whether a racehorse trainer
16 can give a horse the day of a race for the time period that you
17 were licensed?

18 A. They cannot.

19 Q. And what's your understanding of whether a racehorse
20 trainer can give a horse blood builders like Epogen for the
21 time that you were licensed?

22 A. They cannot.

23 Q. Focusing on 2018, what were the range of penalties that you
24 believe you could face if you violated anti-doping rules?

25 A. Suspension, fine, your horse would be disqualified and the

M53BGIA2

Hall - Direct

1 purse money would have to be returned.

2 Q. When you say suspension, what would be suspended?

3 A. Your license. You would be a unable to compete.

4 Q. And you mentioned purse money being returned, what do you
5 understand purse money to be?

6 A. Purse money is the prize money that the horses pick up when
7 they -- usually with standardbred racing, it's first through
8 fifth place you get purse money.

9 Q. Over the period of time when you were licensed, were your
10 horses drug tested?

11 A. Yes.

12 Q. As far as you know, what are the various ways in which a
13 state racing commission could possibly catch you violating the
14 anti-doping rules?

15 A. So they could catch you by --

16 MR. FASULO: Objection.

17 THE COURT: Grounds?

18 MR. FASULO: Speculating as to how they would catch
19 her.

20 THE COURT: Overruled, just for her understanding.

21 Q. You can answer, Ms. Hall.

22 A. They could stop in your barn and do a surprise search. If
23 they caught you with injectables or administering anything, you
24 could be in trouble that way.

25 They could catch you by doing out of competition

M53BGIA2

Hall - Direct

1 testing, meaning they could come to your barn un-announced as
2 well, pull any horse, pull blood on it, take a hair sample,
3 take a urine sample and test that.

4 And the other way would be postrace or prerace testing
5 of the horse. Each state has different laws for that, but they
6 could either do a prerace bicarbonate test, a test for Baking
7 Soda.

8 Or after the race, they would take blood and urine for
9 sending off to the lab for drug testing.

10 Q. Let me ask you just a few follow-up question. You mentioned
11 out of competition testing?

12 A. Yes.

13 Q. Does that mean that the racing commission could come into
14 the barn even if a horse wasn't about to race and drug test
15 that horse randomly?

16 A. Yes.

17 Q. And you also mentioned postrace testing?

18 A. Yes.

19 Q. That's after a race, right?

20 A. Correct.

21 Q. Which horses could be subject to postrace testing?

22 A. Most -- often times the winner is always tested. Some
23 tracks will take the first and second place horses always, and
24 then they can also special a horse. They can pick any horse
25 out of the race that they want regardless of where it finished

M53BGIA2 Hall - Direct

1 and pull it in for testing.

2 Q. So I want to orient you to October of 2018, at that point
3 where were you licensed as a trainer?

4 A. Ohio, Kentucky and Florida at that time.

5 Q. And at that time, where were you living?

6 A. Florida.

7 Q. And in approximately that month and year, how many horses
8 did you train?

9 A. I had two horses at the time, only one was racing.

10 Q. And who was the owner of those horses?

11 A. I was.

12 Q. At your peak, how many racehorses did you train?

13 A. Five.

14 Q. And how many racehorses did you own at the peak of your
15 career?

16 A. Also five.

17 Q. I'd like to talk to you about the first time you had
18 contact with Lisa Ranger or Giannelli from Equestology.

19 How did you make contact with her initially?

20 A. Initially it would have been phone or email.

21 Q. How did you get her contact information?

22 A. From another trainer in Ohio.

23 Q. Can you describe the conversations between you and that
24 other trainer?

25 A. I was just curious as to where he was getting his supplies

M53BGIA2

Hall - Direct

1 from and he had referred me to her.

2 Q. And prior to that, had you heard of Lisa Ranger before?

3 A. No.

4 Q. Did you reach out to Lisa Ranger in approximately October
5 of 2018?

6 A. Yes.

7 Q. Why did you reach out to her initially?

8 A. I was hoping to buy supplies from her.

9 Q. Did you believe that Lisa Ranger was a veterinarian?

10 A. No.

11 Q. At any point did you have any discussion with her about a
12 veterinarian?

13 A. Yes.

14 Q. Can you describe that conversation?

15 A. At one point -- it wasn't our first conversation, but I
16 asked if she could have Dr. Fishman call me and be my primary
17 vet down in Florida.

18 Q. You mentioned Dr. Fishman who you believed was associated
19 with Equestology, correct?

20 A. Yes, I thought he owned the company.

21 Q. What had you heard of Dr. Fishman before you had that
22 conversation with Lisa Ranger?

23 A. I believe I had heard -- well, I know I heard from someone,
24 if you wanted to win races, that Dr. Fishman was the person to
25 talk to.

M53BGIA2

Hall - Direct

1 Q. Had you met him prior to that conversation with Lisa Ranger
2 that you just described?

3 A. No.

4 Q. When you asked to be in touch with Dr. Fishman to get a
5 veterinarian, what did Lisa Ranger say?

6 A. She said he would be unable to come to the farm to see my
7 horses.

8 Q. Did she say why?

9 A. She said he did not do that type of work anymore because he
10 had a bad back.

11 Q. Did you ever purchase drugs from Lisa Ranger?

12 A. Yes.

13 Q. When did you start purchasing drugs from her?

14 A. October 2018.

15 MS. MORTAZAVI: Ms. Jung, could you please pull up,
16 just for the witness, not for the jury, Government Exhibit
17 1915.

18 Q. Ms. Hall, do you recognize this document?

19 A. Yes.

20 Q. What is it?

21 A. It's an email from Lisa Ranger to myself.

22 Q. How do you recognize it?

23 A. That's her email address and that is my email address.

24 MS. MORTAZAVI: The government offers Government
25 Exhibit 1915 into evidence.

M53BGIA2

Hall - Direct

1 MR. FASULO: No objection.

2 THE COURT: It is received in evidence. You may
3 publish it to the jury.

4 (Government's Exhibit 1915 received in evidence)

5 BY MS. MORTAZAVI:

6 Q. Ms. Hall, I'm just going to read out some of the header
7 information on this email. It looks like a message from Lisa
8 Ranger using equestology@Gmail.com, sent Tuesday, October 16,
9 2018, at 12:38 p.m. to hallracingstable@Gmail.com.

10 Is that your email address in the "to" section?

11 A. Yes.

12 Q. Can you read the body of this email, Ms. Hall.

13 A. It says, "Here's the product sheet, but we are always
14 adding to it. If you don't see it, just ask. Thanks, Lisa."

15 Q. Were there attachments to this email?

16 A. Yes.

17 MS. MORTAZAVI: Ms. Jung, could you please go back to
18 the original Exhibit 1915 and turn to page 3.

19 Q. Ms. Hall, is that Equestology written at the very top of
20 the page?

21 A. Yes.

22 Q. And underneath it inventory travel sheet?

23 A. Yes.

24 MS. MORTAZAVI: Ms. Jung, if we can go back to the
25 main portion.

M53BGIA2

Hall - Direct

1 Q. Do you see a category here, Ms. Here, that's listed doc or
2 DOC?

3 A. Yes.

4 Q. Ms. Hall, if you look through this list, could you tell us
5 if you recognize any drugs that you ultimately received from
6 either Seth Fishman or Lisa Ranger?

7 A. Yes.

8 Q. Which ones?

9 A. The BB3, the TB-7 and the VO2 Max.

10 THE COURT: Ms. Mortazavi, if you could find a
11 convenient breaking point.

12 MS. MORTAZAVI: Certainly, your Honor. If we could
13 finish with this.

14 THE COURT: Sure.

15 BY MS. MORTAZAVI:

16 Q. Ms. Jung, if you can turn to page 6 of this exhibit.

17 Ms. Hall, was this another attachment to the email
18 that you received?

19 A. Yes.

20 Q. Written at the top, Dr. Seth Fishman, a number and then
21 questions, and then below that Lisa a number and then orders
22 and payments?

23 A. Yes.

24 Q. Ms. Jung, could you turn to page 2 of this exhibit. Pardon
25 me, if we could turn to the next page of that attachment which

M53BGIA2

Hall - Direct

1 I believe is page 7 of this exhibit.

2 Ms. Hall, do you recognize any products on this sheet
3 that you received from Ms. Ranger of drugs that you ultimately
4 purchased or received from either of the individuals we've
5 mentioned?

6 A. No.

7 Q. Ms. Jung, could you turn to page 8 of this exhibit.

8 Do you recognize any items here that you received?

9 A. There's one that I received from Dr. Fishman.

10 Q. Which one is that?

11 A. The TB-7.

12 Q. Turning to the next page, Ms. Jung.

13 Any items here that you received?

14 A. No.

15 Q. Turning to the page after that, Ms. Jung.

16 Any items here that you ever received from Seth
17 Fishman or Lisa Ranger?

18 A. Yes, the EGH.

19 Q. And, Ms. Jung, could you turn to next page in this exhibit,
20 and the page after that.

21 Ms. Hall, looking through that list of items in this
22 attachment to the email that you received from Lisa Ranger,
23 were there any items that you received that are not on this
24 list?

25 A. Yes.

M53BGIA2

Hall - Direct

1 Q. What are those?

2 A. The VO2 Max.

3 Q. Anything else?

4 A. No.

5 Q. You testified earlier that you recognized BB3?

6 MR. FASULO: Objection, Judge.

7 THE COURT: Overruled.

8 A. I'm sorry, yes, I did. I forgot about getting that as
9 well.

10 MS. MORTAZAVI: Your Honor, this is a convenient
11 breaking point.

12 THE COURT: Ms. Hall, I remind you, you remain under
13 oath. Please do not talk about your testimony with anyone
14 during the break.

15 Ladies and gentlemen, please leave your notepads on
16 your seats and we'll take a break until about 11:30. Please
17 don't talk about the case during your break and we'll see you
18 back here shortly. Thank you.

19 (Recess)

20 THE COURT: Let's get the jury.

21 (Jury present)

22 THE COURT: Would someone please retrieve Ms. Hall.

23 Thank you, Ms. Hall. You can remove your mask and you
24 remain under oath.

25 Ms. Mortazavi.

M53BGIA2

Hall - Direct

1 BY MS. MORTAZAVI:

2 Q. Ms. Jung, could you please display Exhibit 1915, just the
3 first page that we were looking at before the break, and if you
4 could focus on the header information in that email.

5 Ms. Hall, this was an email that was sent from Lisa
6 Ranger October 16, 2018, at 12:38 p.m.; is that right?

7 A. Yes.

8 Q. Ms. Jung, could you please now display for the witness only
9 what's been marked as Government Exhibit 1914.

10 Ms. Hall, do you recognize this document?

11 A. Yes.

12 Q. What is it?

13 A. An email from Lisa to myself.

14 Q. How do you recognize it?

15 A. That's her email address and that's to my email address.

16 Q. And, Ms. Hall, I'm just going to ask you to keep your voice
17 up again.

18 MS. MORTAZAVI: Your Honor, the government offers
19 Exhibit 1914 into evidence.

20 MR. FASULO: No objection.

21 THE COURT: It is received.

22 (Government's Exhibit 1914 received in evidence)

23 BY MS. MORTAZAVI:

24 Q. Ms. Jung, could you please publish for the jury.

25 Ms. Hall, is this an email that was sent from

M53BGIA2

Hall - Direct

1 Equestology@Gmail.com to your email address?

2 A. Yes.

3 Q. Was this sent October 16, 2018, at 1:51 p.m.?

4 A. Yes.

5 Q. Is that within about two hours of the last exhibit we were
6 looking at?

7 A. Yes.

8 Q. In those two hours between the two emails that we're
9 talking about, did you talk to Seth Fishman?

10 A. No.

11 Q. Ms. Jung, could you turn to the second page of this
12 exhibit.

13 Ms. Hall, was this an attachment to the email we just
14 reviewed?

15 A. Yes.

16 Q. Do you see in the top left corner the company name
17 Equestology with an address in Delaware?

18 A. Yes.

19 Q. And looking back at the full invoice, do you see your name
20 associated with an address?

21 A. Yes.

22 Q. Do you recognize that address?

23 A. Yes.

24 Q. What is it?

25 A. That's where I was living at the time.

M53BGIA2

Hall - Direct

1 Q. You see here that there's an itemized list of various
2 drugs?

3 A. Yes.

4 Q. Do you recognize any of the items on this list as
5 injectable drugs?

6 A. Yes.

7 Q. Do you recognize any of these drug as prescription drugs?

8 A. Yes.

9 Q. What was your understanding at the time of whether you as
10 the trainer could purchase these from Lisa Ranger?

11 A. I was not supposed to be purchasing these.

12 Q. According to what?

13 A. The racing commission rules.

14 Q. And before you placed this order, what conversation, if
15 any, did you have with Lisa Ranger about a prescription for
16 these drugs?

17 A. I don't remember having any conversation about the
18 prescription. I think she just asked for the horse's name.

19 Q. And after placing the order, did you receive these drugs?

20 A. Yes.

21 Q. Who administered these drugs to your racehorses, if anyone?

22 A. I did.

23 Q. You testified that Lisa Ranger told you that Seth Fishman
24 could not perform a physical exam on your horses; is that
25 correct?

M53BGIA2

Hall - Direct

1 A. Yes.

2 Q. At any point after you had that conversation, did you hire
3 someone to examine your horses?

4 A. I did find someone, yes.

5 Q. Who is that person?

6 A. At the time I believe it was Dr. Carinda (ph).

7 Q. Not Seth Fishman?

8 A. No.

9 Q. And you testified that you at one point met Seth Fishman in
10 person, correct?

11 A. Correct.

12 Q. How did you come to meet with him in person for the first
13 time?

14 A. We had dinner.

15 Q. And who set up that meeting?

16 A. He initiated it.

17 Q. Did you reach out to him prior to that?

18 A. Yes.

19 Q. And approximately when did you first reach out to Seth
20 Fishman?

21 A. I reached out to him in October of 2018 initially.

22 Q. And approximately when was your first meeting with him?

23 A. Not until January 2019.

24 Q. Ms. Jung, could you please display Government Exhibit 900A.
25 This is an electronic record retrieved from Seth Fishman's

M53BGIA2

Hall - Direct

1 electronic device which is already admitted into evidence.

2 Ms. Hall, looking at this exhibit, do you see that it
3 contains text messages between two parties?

4 A. Yes.

5 Q. And who are the parties in this chat?

6 A. Seth Fishman and myself.

7 Q. Do you recognize the number that's associated with the name
8 Adrienne Hall?

9 A. Yes.

10 Q. How do you recognize that phone number?

11 A. That was my old phone number.

12 Q. Is that how you spell your name?

13 A. No.

14 Q. Looking at the full exhibit, Ms. Jung, does it appear that
15 these blue messages are from you, Ms. Hall, and the green
16 messages are from Seth Fishman?

17 A. Yes.

18 Q. Ms. Jung, could we focus on the very first message here.
19 That's the one for the record dated October 21, 2018 at 11:59
20 p.m.

21 Ms. Hall, could you read that message?

22 A. "Hi, my name is Adrienne and I'm a horse trainer at
23 Sunshine Meadows. I got your number from Lisa. I was wondering
24 if you can help me come up with some prerace options for a new
25 horse I just got in. I can email you his most recent blood work

M53BGIA2

Hall - Direct

1 if so."

2 Q. What did you mean by "prerace options"?

3 A. To help treat the horse leading up to a race to help
4 improve its performance.

5 Q. During your initial meeting with Seth Fishman, what did you
6 discuss with him?

7 A. I don't remember all of the conversations, but I know I
8 talked a lot about my horses and he had touched on a little bit
9 of his business.

10 Q. Apart from that conversation, what else happened at that
11 meeting?

12 A. He had asked me to meet him at his car and he gave me a
13 gift bag with some samples of drugs in it.

14 Q. Do you remember any of the drugs?

15 A. VO2 Max was in there and a syringe bleeder paste it was
16 called.

17 Q. And what did Seth Fishman tell you about VO2 Max at that
18 meeting?

19 A. He said that it would be best used on the day of a race or
20 before a workout.

21 Q. And what was VO2 Max supposed to do for a racehorse?

22 A. To help improve its performance.

23 Q. Did you ultimately administer VO2 Max to any of your
24 racehorses?

25 A. Yes, to one I did.

M53BGIA2

Hall - Direct

1 Q. And when did you administer it?

2 A. On race day.

3 Q. What penalties could you have faced if you had been caught
4 administering that VO2 Max to your racehorse?

5 MR. FASULO: Objection. Place, time.

6 THE COURT: I'm sorry.

7 MR. FASULO: Place, time, track, state.

8 THE COURT: When she did it, what penalties could you
9 have faced.

10 A. The day and time.

11 Q. At the time that you administered VO2 Max to your horse the
12 day of a race, what penalties do you believe you could have
13 faced if you were caught?

14 A. If I was caught, my horse would have been scratched, would
15 not have been allowed to race that day. I would have most
16 likely faced a suspension and fine.

17 Q. By scratch you mean disqualified?

18 A. Just not even allowed to enter.

19 Q. And for what length of time were you in touch with Seth
20 Fishman after that first in-person meeting?

21 A. Our last conversation was very end of may, very beginning
22 of June.

23 Q. Was that about a five-month period?

24 A. Yes.

25 Q. And over the course of that five-month period, which drugs

M53BGIA2

Hall - Direct

1 did you receive from him?

2 A. He had given me some samples of drug called BB3, a drug
3 called TB-7 and VO2 Max and the EGH, equine growth hormone.

4 Q. How did you physically receive those drugs?

5 A. He gave them to me and there was one other time I met
6 another woman that I thought worked for him, but I wasn't sure.

7 Q. Was that woman someone other than Lisa Ranger?

8 A. Yes.

9 Q. And you stated that you received samples from Seth Fishman?

10 A. Correct.

11 Q. Were you purchasing or paying for those drugs?

12 A. No, he just wanted me to try them.

13 Q. And the TB-7, EGH and BB3, how would you categorize each of
14 those drugs?

15 A. The BB3, it was my impression that was a blood builder.

16 Q. What effect does a blood builder have on a racehorse?

17 A. It increases their red blood cell count which helps them
18 with their performance. They don't get fatigued as quickly.

19 Q. Were you permitted to administer blood builders to your
20 horse?

21 A. No.

22 Q. What about the TB-7, how would you characterize that?

23 A. I'm not really quite sure how I would characterize it. I
24 think it was part of the blood builder.

25 Q. And the EGH?

M53BGIA2 Hall - Direct

1 A. That was an equine growth hormone.

2 Q. What was that supposed to do for your racehorse as you
3 understood it?

4 A. As I understood, it was to help build muscle.

5 Q. And the blood builders that you received from Seth Fishman,
6 did you actually administer those to any of your racehorses?

7 A. I did try them on one horse, yes.

8 Q. Apart from that in-person meeting and text messages with
9 Seth Fishman, how else did you communicate with him?

10 A. Over the phone.

11 MS. MORTAZAVI: Ms. Jung, could you please display
12 Government Exhibit 102AT and please prepare Government Exhibit
13 102A, and the jurors can wither follow along on their screens
14 or in their binders by turning to that tab.

15 For the record, this is March 7, 2019, intercepted
16 phone call between Seth Fishman and Adrienne Hall.

17 Ms. Jung, if you could please play.

18 (Media played)

19 (Media stopped)

20 MS. MORTAZAVI: You can take down this exhibit,
21 Ms. Jung.

22 BY MS. MORTAZAVI:

23 Q. Ms. Hall, do you know what Epo is?

24 A. Epogen.

25 Q. Is Epo another term for Epogen.

M53BGIA2

Hall - Direct

1 A. E-P-O, yes.

2 Q. Are you familiar with the phrase Epo mimetic?

3 A. From that conversation, yes.

4 Q. What did you understand that to mean?

5 A. It was something that might have the same effect as an
6 Epogen, but not as bad as it.

7 MS. MORTAZAVI: Ms. Jung, could you please now display
8 Government Exhibit 102CT and prepared Government Exhibit 102C.

9 And for the record, this is another portion of that
10 same intercepted call, March 7, 2019, between Seth Fishman and
11 Adrienne Hall.

12 Ms. Jung, if you could please play.

13 (Media played)

14 (Media stopped)

15 MS. MORTAZAVI: Ms. Jung, I'm going to ask you to
16 prepare Government Exhibit 102ET and Government Exhibit 102T,
17 which again for the record is another portion of that same
18 intercepted call between Adrienne Hall and Seth Fishman.

19 Ms. Jung, if you could please.

20 (Media played)

21 (Media stopped)

22 BY MS. MORTAZAVI:

23 Q. Ms. Hall, there was a reference in this phone call to a
24 commission, what did you understand that to be referencing?

25 A. The racing commission.

M53BGIA2

Hall - Direct

1 Q. What, if anything, did Seth Fishman about the testability
2 of the products he sold?

3 A. He was very confident that they did not test.

4 Q. Was that important to you?

5 A. Yes.

6 Q. Why is that.

7 A. If I had gotten a positive test, then I would have faced a
8 suspension hearing, fines, disqualification.

9 Q. There is also a reference on that to cloudy test, what did
10 you understand that to mean?

11 A. My understanding of a cloudy test is, you know, they pull
12 the blood. Something is detected on it, they're just not quite
13 sure what it is, so it's kind of like an inconclusive test, but
14 something has shown up as a little suspicious.

15 MS. MORTAZAVI: Ms. Jung, could you please display
16 Government Exhibit 102FT and prepared Government Exhibit 102F.

17 For the record, this is another portion of that same
18 March 7, 2019 intercepted call between Seth Fishman and
19 Adrienne Hall.

20 Ms. Jung, if you could please play

21 (Media played)

22 (Media stopped)

23 BY MS. MORTAZAVI:

24 Q. There was a reference here and in other calls that we
25 reviewed, Ms. Hall, to Mary, did you know who Mary was?

M53BGIA2

Hall - Direct

1 A. I had met her on two occasions.

2 Q. Was she the individual that you testified about earlier who
3 would give you drugs?

4 A. Yes.

5 Q. Were all the drugs that you received from Seth Fishman
6 labeled?

7 A. No.

8 Q. Were some of them unlabeled?

9 A. Yes.

10 Q. How would you refer to the drugs that had no label?

11 A. By the color of their cap.

12 Q. And which drugs, if you recall, did not have a label on
13 them?

14 A. The BB3.

15 Q. Any others?

16 A. I think it was just the BB3.

17 Q. Ms. Jung, could you please display Government Exhibit 900D,
18 which for the record is another extraction from an electronic
19 device belonging to Seth Fishman which is already in evidence.

20 Ms. Hall, do you see, this is a text chain between you
21 and Seth Fishman?

22 A. Yes.

23 MS. MORTAZAVI: So, Ms. Jung, if we could focus on the
24 very bottom message of this page, which for the record is dated
25 March 11, 2019.

M53BGIA2

Hall - Direct

1 Q. Ms. Hall, could you go ahead and read out what Seth Fishman
2 texted you.

3 A. "Here's reality, I was tortured so much by a race
4 commission without a client ever getting a single positive
5 other than stupid shit like Bute given by another vet. I
6 voluntarily gave up my license and then the veterinarian board
7 had me investigated for BS. They even accused Lisa of
8 practices veterinary medicine. I spent 25,000 dollars in legal
9 fees and had a personal political favor called in to end the
10 BS."

11 Q. Ms. Hall, what, if anything, did you know about Equestology
12 being investigated by a racing commission?

13 A. Nothing.

14 Q. Apart from that text message, nothing else?

15 A. No.

16 Q. What about an investigation by a veterinary board into Seth
17 Fishman or Lisa Ranger?

18 A. I was not aware of that until that conversation.

19 Q. Did you have any idea what he was talking about?

20 A. No.

21 MS. MORTAZAVI: Ms. Jung, could you please now display
22 Government Exhibit 900E, and turn to the top of page 2.

23 Q. And, Ms. Hall, looking at this page, does this also appear
24 to be messages between you and Seth Fishman?

25 A. Yes.

M53BGIA2

Hall - Direct

1 MS. MORTAZAVI: And for the record, this was extracted
2 from the same electronic device belonging to Seth Fishman as
3 the prior exhibits we've reviewed.

4 Ms. Jung, could you please display the very top
5 message on the page, which is for the record from Seth Fishman,
6 March 12, 2019.

7 Q. Ms. Hall, could you go ahead and read the contents of this
8 text message to you.

9 A. "It's Seth trying to call you. Reconstitute TB-7 with 2 to
10 3 mls bacteriostatic water and give one dose IV. For horse you
11 want to build blood take the one green cap bottle and one navy
12 cap amber bottle and reconstitute with 2-3 mls and give IV."

13 Q. What did you understand reconstitute to mean?

14 A. Mix together.

15 Q. How did you administer the TB-7 that you received from Seth
16 Fishman to your horses?

17 A. In the vein how he described it.

18 Q. How he described it in this text message?

19 A. Yes.

20 Q. What about the BB3?

21 A. I believe that was the same way, that was in the vein as
22 well.

23 Q. To mix it and then give it into the vein?

24 A. Yes.

25 Q. And what about the EGH?

M53BGIA2

Hall - Direct

1 A. That was a muscle shot.

2 Q. What does that mean?

3 A. In the muscle of the skin.

4 Q. Did you have to mix that?

5 A. No.

6 Q. At what time of day were you administering the drugs that
7 you received from Seth Fishman?

8 A. In the evening.

9 Q. Why is that?

10 A. I was hoping to not be seen by anyone.

11 MS. MORTAZAVI: Ms. Jung, you can take down this
12 exhibit. Thank you.

13 Q. Ms. Hall, during the time you were receiving drugs from
14 Seth Fishman, what contact, if any, did you have with Lisa
15 Ranger?

16 A. Just over the emails when I was placing orders with her.

17 Q. How would you place your orders with her?

18 A. Mostly email and text.

19 Q. How often would you place orders with her?

20 A. Probably once a month, once every couple of weeks.

21 Q. What types of drugs were you purchasing from her?

22 A. Most of my orders were vitamins, some Bute, Banamine,
23 Amicar, a lot of electrolyte drugs.

24 Q. Are Bute and Banamine vitamins?

25 A. No.

M53BGIA2

Hall - Direct

1 Q. What are they?

2 A. Pain killers.

3 Q. Are they drugs?

4 A. Yes.

5 Q. Do they typically require a prescription?

6 A. Yes.

7 Q. And what, if any, conversations did you have with Lisa
8 Ranger about prescriptions for those drugs?

9 A. None.

10 Q. What, if any, conversations did you have with her about
11 Seth Fishman?

12 A. None. After that initial asking if he could come to my
13 farm, I don't think I had any.

14 Q. Would you pay Lisa Ranger for the drugs that you were
15 ordering?

16 A. Yes.

17 Q. You testified that Seth Fishman gave you samples of a
18 number of drugs, correct?

19 A. Yes.

20 Q. Did you end up ordering and paying for any of those drugs?

21 A. No. I ordered -- you mean from Dr. Fishman or from --

22 Q. From either Dr. Fishman or Lisa Ranger.

23 A. I bought two bottles of VO2 Max from Lisa Ranger.

24 Q. You did not buy them from Seth Fishman?

25 A. No.

M53BGIA2 Hall - Direct

1 Q. Who did you contact when you were ready to pay for VO2 Max?

2 A. Lisa.

3 MS. MORTAZAVI: Ms. Jung, could you please display
4 Government Exhibit 105D as in dog T, and prepare Government
5 Exhibit 105D.

6 And again, the jurors can follow along on their
7 screens or in their binders.

8 For the record, this is a March 20, 2019 call between
9 Seth Fishman and Adrienne Hall.

10 Ms. Jung, could you please play this call.

11 (Media played)

12 (Media stopped)

13 MS. MORTAZAVI: Ms. Jung, if you could take down this
14 exhibit and place display Government Exhibit 900G, G as in
15 golf.

16 For the record, this is another extraction from an
17 electronic device belonging to Seth Fishman.

18 Q. And, Ms. Hall, does this look like a series of text
19 messages between you and Seth Fishman?

20 A. Yes.

21 MS. MORTAZAVI: Ms. Jung, could we turn to the last
22 page of this exhibit, and could you focus on the very last
23 message.

24 For the record, this is a text message from Adrienne
25 Hall, dated March 31, 2019.

M53BGIA2

Hall - Direct

1 Q. Ms. Hall, was this the last time you had contact with Seth
2 Fishman by text?

3 A. That was our last text exchange, yes.

4 Q. Do you recall one way or the other whether you had any
5 further contact with Seth Fishman after this text message?

6 A. Yes, he called me one time.

7 Q. What happened during that phone call?

8 A. He basically was bringing up how he had given me free
9 samples of these drugs and he seemed a little agitated with me;
10 and in fact said he regretted ever helping me because I turned
11 out to be a huge waste of his time.

12 Q. Did you understand what he meant by that?

13 A. Yeah. I think -- yes, I think he was hoping that I would
14 bring in some big name trainers and clients for him and that's
15 why he wanted to have me try these samples on my horses because
16 if they raced well, then these other guys would notice and want
17 to work with him as well.

18 Q. Did you actually bring in those big named trainers as you
19 put it?

20 A. No.

21 Q. After March 31, 2019, did you continue to order drugs from
22 Lisa Ranger?

23 A. I'm sorry, after what date?

24 Q. After you sent that text message to Seth Fishman, did you
25 continue to order drugs from Lisa Ranger?

M53BGIA2

Hall - Direct

1 A. I placed one last order with her, yes.

2 MS. MORTAZAVI: Ms. Jung, could you please display
3 Government Exhibit 608, which for the record is an item that
4 was extracted from a device seized from Lisa Giannelli's
5 residence.

6 Q. Ms. Hall, do you recognize this document?

7 A. Yes.

8 Q. Next to the word "for," is that your name?

9 A. Yes.

10 Q. And you see the address listed under your name, do you
11 recognize that?

12 A. Yes.

13 Q. What is it?

14 A. That was where I was living at the time.

15 Q. Do you see at the top of this it says invoice and then on
16 the left side Equestology with an address in Delaware?

17 A. Yes.

18 Q. Do you see a line item in this invoice for VO2 Max?

19 A. Yes.

20 Q. Are these the bottles of VO2 Max that you testified about
21 earlier?

22 A. Yes.

23 Q. The same VO2 Max you believed you received from Seth
24 Fishman, correct?

25 A. No.

M53BGIA2

Hall - Direct

1 Q. I'm sorry. The same name of the drug that you received
2 from Seth Fishman?

3 A. Yes.

4 MS. MORTAZAVI: Ms. Jung, could you please take this
5 down and display Government Exhibit 715 and turn to page 12.

6 If we could focus on the lower third of the page, Ms. Jung.

7 Q. Ms. Hall, do you see your name on this list?

8 A. Yes.

9 Q. And there's an address associated with Monroe, New Jersey,
10 correct?

11 A. Correct.

12 Q. Was that the address where you had moved to after you left
13 Florida?

14 A. Yes.

15 MS. MORTAZAVI: Ms. Jung, you can take down this
16 exhibit.

17 Q. Ms. Hall, how much money in purse winnings did you earn in
18 2018?

19 A. 2018 or 2019?

20 Q. In 2019, pardon me.

21 A. Roughly 60,000.

22 Q. And how much did you profit?

23 A. I lost money.

24 Q. During the time you knew Seth Fishman, had he ever
25 physically examined your horses?

M53BGIA2

Hall - Cross

1 A. No, he did not.

2 Q. You testified earlier that during the time you were
3 speaking with Seth Fishman, your horses were drug tested,
4 correct?

5 A. Correct.

6 Q. Had you ever been told that a horse tested positive on a
7 drug test?

8 A. No, I never got a positive test.

9 Q. And during that time, had your license ever been suspended?

10 A. No.

11 MS. MORTAZAVI: No further questions.

12 THE COURT: Thank you.

13 Mr. Fasulo.

14 CROSS-EXAMINATION

15 BY MR. FASULO:

16 Q. Good afternoon, Ms. Hall.

17 A. Hello.

18 Q. Ms. Hall, you spoke on your direct examination about
19 meetings you had with the government, correct?

20 A. Yes.

21 Q. And how many times did you meet with the government prior
22 to January 17, 2022?

23 Do you remember?

24 A. No.

25 Q. Was it more than five, less than five?

M53BGIA2

Hall - Cross

1 A. I don't remember.

2 Q. Did you meet with them more than one time?

3 A. Yes.

4 Q. Would you say more than four times?

5 A. Probably, yes.

6 Q. And prior to testifying here today, you've met with both
7 U.S. Attorneys and the agents in the case, right?

8 A. Yes.

9 Q. Your lawyer was present, correct?

10 A. Yes.

11 Q. And at some point after meeting with them for a period of
12 time, you entered into a non-prosecution agreement, correct?

13 A. Correct.

14 Q. And you entered into that agreement because you had
15 committed acts which could be charged by the government in this
16 courtroom; is that what your understanding was?

17 A. That's not why I entered into the agreement, no.

18 Q. Did you believe that you committed acts that were illegal
19 acts?

20 A. To be honest with you, I didn't believe that what I did was
21 going to merit me being arrested or convicted or indicted. I
22 was never really worried about that.

23 Q. And why didn't you believe that?

24 A. I didn't really think that what I had done was punishable
25 by law.

M53BGIA2

Hall - Cross

1 Q. And what was it that you had done?

2 A. I gave my horse prescription -- or, I'm sorry. I gave my
3 horse performance enhancing drug.

4 Q. And did you do that without -- with drugs that were not
5 prescribed to your horse?

6 A. Correct.

7 Q. And did you do that with drugs that were not labeled
8 properly?

9 A. Correct.

10 Q. And did you do that in hope of winning races?

11 A. Correct.

12 Q. And you never believed that was going to get you in any
13 trouble?

14 A. Not with the federal government, no. I thought with the
15 racing commissions, yes.

16 Q. And you said before you became involved in racing, you had
17 went to, I think you said, East Stroudsburg State?

18 A. Yes.

19 Q. And you have your degree there?

20 A. Yes.

21 Q. And you actually owned a number of horses?

22 A. I owned a couple.

23 Q. Five?

24 A. No more than five, yes.

25 Q. And you owned those horses over what period of time?

M53BGIA2

Hall - Cross

1 A. I owned one or two thoroughbreds with my ex-husband. I
2 don't remember the exact year, maybe 2014, 2015, and then I
3 acquired my first standardbred in I believe it was 2017.

4 Q. And what was your relationship with your horses?

5 Did you care about your horses?

6 A. They're like my children, yes, I did. I do.

7 Q. Was it ever your intent to endanger the health of the
8 horses as you gave these horses these medications that you
9 talked about earlier?

10 A. No.

11 MS. MORTAZAVI: Objection, relevance.

12 THE COURT: Overruled. You can answer.

13 A. No, it was not.

14 Q. You said there came a point of time again that you entered
15 into this agreement with the government, that was about January
16 17, 2022, correct?

17 A. Correct.

18 MR. FASULO: And I'd like to show you what I'd like
19 marked as Defense Exhibit 1103.

20 Q. If you can take a look at this agreement.

21 Do you remember seeing that agreement prior to coming
22 here today?

23 A. I believe this is the same one, yes.

24 Q. Do you remember reading it before you signed it?

25 A. Yes.

M53BGIA2

Hall - Cross

1 Q. And is that the agreement that you signed that you talked
2 about as a non-prosecution agreement?

3 A. I believe so, yes.

4 Q. And prior to signing that agreement, did you have time to
5 speak to your attorney about that agreement?

6 A. Yes.

7 Q. Did you understand the terms and conditions of that
8 agreement?

9 A. As well as I could, I believe so.

10 Q. And did you voluntarily sign that agreement?

11 A. Yes.

12 Q. Is that your signature on the last page?

13 A. Yes.

14 Q. And who else signed the agreement?

15 A. My attorney.

16 Q. And anyone else?

17 A. The prosecutor and chief criminal Daniel Gitner.

18 MR. FASULO: Your Honor, at this time I ask that this
19 be entered into evidence as defense -- I want to use the
20 exhibit number that we all know, 1103.

21 THE COURT: Ms. Mortazavi.

22 MS. MORTAZAVI: Your Honor, if it's Government Exhibit
23 11003, there's no objection.

24 THE COURT: You can work out what the exhibit number
25 is. We don't need to take time with the jury, but the exhibit

M53BGIA2

Hall - Cross

1 itself will be admitted into evidence without objection?

2 MS. MORTAZAVI: No objection, your Honor.

3 THE COURT: Thank you.

4 (Government's Exhibit 11003 received in evidence)

5 BY MR. FASULO:

6 Q. Pursuant to that agreement, it was your understanding that
7 if you testified here today and tell the truth and you were
8 cooperative with the government, that you will not be
9 prosecuted for any crimes related to the -- giving the horses
10 the performance enhancing drugs during the time that you were a
11 trainer, correct?

12 A. Yes.

13 Q. I want to go back to a couple of the exhibits that you were
14 able to see during your direct examination and review them with
15 you. If we can show 1915.

16 A. Can I add something to that last question?

17 THE COURT: No, there's not a question pending.

18 BY MR. FASULO:

19 Q. Let me ask you this question because it looks like there
20 seems to be an issue.

21 Going back to the agreement that you signed on January
22 17, 2022, is it your understanding that after you signed that
23 agreement that you would not be prosecuted for the crimes
24 related to your activity as an owner-trainer in the related
25 time period that you testified during direct examination?

M53BGIA2

Hall - Cross

1 A. Yes, but I was committed to helping regardless of signing
2 an agreement or not.

3 Q. But you didn't start helping until you signed this
4 agreement, correct?

5 A. That's not correct.

6 Q. And you'd be here today even if the government did not --

7 A. Yes.

8 THE COURT: Let him finish the question.

9 Q. So your testimony here today is that this agreement really
10 isn't the reason why you're testifying here today?

11 A. The reason why I'm testifying here today and why I am doing
12 what I'm doing is because I believe that this will help the
13 sport and it will help the horses and we desperately need that.

14 Q. And you understand that if you testified here today and you
15 admitted to certain acts and the government believed those acts
16 were illegal, that you would face penalties for them?

17 Do you understand that?

18 A. Could you repeat that. I'm sorry.

19 Q. You understand that if you didn't have this agreement and
20 you gave that testimony that you gave here today, you would be
21 admitting to acts which the government believes are illegal,
22 correct?

23 A. Correct.

24 Q. And you would be admitting to acts that you could face some
25 sort of penalty for in the criminal -- some sort of criminal

M53BGIA2

Hall - Cross

1 penalty for?

2 A. Yes.

3 Q. And you said that you would do that despite the fact of
4 signing that agreement, correct?

5 A. Yes.

6 Q. And that's because you care about animals?

7 A. Yes.

8 Q. And you care about the integrity of the racing industry?

9 A. Yes, very much so.

10 Q. Yet when you were involved in the racing industry, you
11 never believed anything you were doing was criminally illegal?

12 A. I did not get my first standardbred and join this business
13 with the intent to cheat or drug horses or do any of this.

14 In fact, my first vet that I used was a holistic vet,
15 and we did salt therapy and acupuncture, and that was --
16 however, it did become very evident within a short period of
17 time that if I wanted to keep these animals and I wanted to
18 compete, I would need to do some other things.

19 Q. And so then you decided to break the rules, correct?

20 A. Yes.

21 Q. And you decided to go against the integrity of the racing
22 commission?

23 A. Yes.

24 Q. And you are part of the problem in terms of the conditions
25 that you just talked about that you are now seeking to remedy,

M53BGIA2

Hall - Cross

1 correct?

2 A. Yes.

3 Q. And you created those problems because you as a trainer
4 made those judgments as to what to administer to your horses,
5 correct?

6 A. Correct.

7 Q. And you did that based on greed?

8 A. No.

9 Q. You did it because you could make money, correct?

10 A. I lost money actually doing this.

11 Q. So you did it to lose money?

12 A. I did it so I could stay in the business and I could keep
13 my horses. And if they were at least getting third, fourth,
14 fifth place checks, then they would be paying their way, and I
15 felt that was what I needed to.

16 Q. Right. So you did it to make money to support your ability
17 to own horses?

18 A. I made it to pay the bills to keep them and to keep going.

19 Q. And you did that because you were hoping to make the money
20 that you needed to do that, correct?

21 A. I was, yes.

22 Q. And you didn't do it not to make money, correct?

23 A. Correct.

24 Q. And so greed, making money, was one of the reasons you did
25 it; is that fair to say?

M53BGIA2

Hall - Cross

1 A. I would say it was more love for my horses to keep them
2 because if I was not making money, I would lose them.

3 Q. Let me move on.

4 And, in fact, it was your decision as the trainer to
5 engage in the dispensing of those drugs, to those horses at the
6 time that you testified during direct examination, correct?

7 A. Yes.

8 Q. And it was solely your decision, correct?

9 A. Correct.

10 Q. Now I want to bring your attention -- now I ask you to put
11 up 1915.

12 This is an email that you received from Lisa Ranger,
13 correct?

14 A. Yes.

15 Q. And you received this on October 16, 2018, correct?

16 A. Yes.

17 Q. And sometime during the next month I believe you said,
18 November 4, 2018, you actually made contact with Dr. Fishman,
19 correct?

20 A. No, it wasn't until January of 2019.

21 Q. January of 2019?

22 A. Yes.

23 Q. When you did make contact with Ms. Ranger, you said that
24 you were putting certain orders in, correct?

25 A. Yes.

M53BGIA2

Hall - Cross

1 Q. And prior to that time you had owned horses, right?

2 A. Yes.

3 Q. And you had ordered medications, correct?

4 A. Yes.

5 Q. Where did you order medications before you had this email
6 exchange with Lisa Ranger in October 16, 2018?

7 A. So you could either buy things directly --

8 Q. What do you mean by that?

9 A. If the vet prescribed medication for your horses, you could
10 buy the medication from them directly off the truck.

11 Q. And other than that, where did you purchase medication?

12 A. There was another person in Ohio where I was stabled at the
13 time that would drive around and he sold everything you could
14 imagine on his truck and it was at a discounted price.

15 Q. And in Florida, when you were in Florida, where was it that
16 you were purchasing?

17 A. I made my first order with Lisa the first month I was in
18 Florida.

19 MR. FASULO: And if I can go now to 900A.

20 Can we just highlight the top.

21 Q. Now, you remember seeing this on your direct examination?

22 A. Yes.

23 Q. And this was an email that you had on October 2018,
24 correct?

25 A. Yes.

M53BGIA2

Hall - Cross

1 Q. And who was it that you were emailing on that day?

2 MS. MORTAZAVI: Objection, misstates evidence.

3 Q. Who were you texting on that particular day in this
4 exchange?

5 A. Dr. Seth Fishman.

6 Q. And that was October 2018, a few days after you had had the
7 initial email with Lisa Ranger; is that true?

8 A. Yes.

9 Q. And at that time, you introduced yourself to Dr. Fishman in
10 the first part that's marked blue and dated 10/22/2018,
11 12:51:07; is that right?

12 A. Yes.

13 Q. And at that time, Dr. Fishman indicated that he had been
14 trying to reach you, right?

15 A. Yes.

16 Q. At that time, he indicated that he was out of the country
17 and he was going to return, correct?

18 A. Yes.

19 Q. And that communication happened on November 4, 2018,
20 correct?

21 A. Correct.

22 Q. And then again you continued to text with the doctor, and
23 on 11/23/2018, you indicated that you were interested in
24 knowing when the doctor would return to Florida, correct?

25 A. Yes.

M53BGIA2

Hall - Cross

1 Q. And then he responded to you December 27, 2018, correct?

2 A. Yes.

3 Q. And at that time he indicated that he was coming home?

4 A. Yes.

5 Q. And it was after the final communication with him that you
6 were able to arrange at some point a meeting with him in
7 January 2019; is that fair to say?

8 A. That was the first time I met him was in January 2019.

9 Q. And you met him in Florida, correct?

10 A. Correct.

11 Q. And at that time you had a conversation about your horses,
12 correct?

13 A. Yes.

14 Q. And Dr. Fishman gave you his philosophy.

15 What did Dr. Fishman talk about at that time with you?

16 A. We had actually had a phone call before the dinner and we
17 talked for a very long time about my horses and his business.

18 And I remember on that very first phone call I made it
19 clear to him that I needed help to compete, but I did not want
20 to resort to using Epogen or baking soda or any heavy things
21 that I knew were being used by other trainers.

22 Q. And what was your understanding of Dr. Fishman's knowledge
23 about horses, the racing industry, and about his expertise in
24 dealing with the issues that you were presenting to him?

25 A. Again, this was my very first year in the harness business,

M53BGIA2

Hall - Cross

1 so I didn't really know everyone very well.

2 What I had heard about Dr. Fishman was that -- and I
3 think I mentioned this earlier -- if you wanted to win races,
4 he's a good person to have help you.

5 Q. And you had this long conversation with him, right?

6 A. Yes.

7 Q. And he responded to a lot of your concerns during that
8 conversation; is that right?

9 A. Yes.

10 Q. What was your impression after that conversation you had
11 with Dr. Fishman about Dr. Fishman?

12 A. I thought he was very smart and I thought he understood
13 what I was looking for help with.

14 Q. When you say "very smart," did he seem -- why do you say
15 that?

16 A. Again, it was my first year in the business, so I think
17 anyone with half a clue would be smart, but he seemed to know
18 all the answers to the questions I had and seemed very
19 knowledgeable and experienced.

20 Q. Did you have continuing conversation with him from that day
21 until the last day you said sometime in May that you stopped
22 speaking with Dr. Fishman?

23 A. Yes.

24 Q. And were those continued text messages?

25 A. Phone calls, text messages, yes.

M53BGIA2

Hall - Cross

1 Q. And were those conversations about your horse and the types
2 of -- the program that he was suggesting for your horse?

3 A. Yes, those were parts of the conversations, yes.

4 Q. And during those conversations, did he explain to you the
5 reasons why he thought a certain program would be appropriate
6 for your horse based on the way you were presenting the issues?

7 A. Yes, and I think at one point he referred to what he was
8 helping me with was a stupid starter pack.

9 Q. And what did you think that meant?

10 A. Well, he had said on a scale of one to ten, ten being the
11 most severe, what I'm going to help you with is going to be
12 like a two or three; so I think he understood I didn't want to
13 tear my horses up, but I needed some help to compete.

14 MR. FASULO: I want to ask the government to put up
15 102 series up starting with 102A.

16 Q. You remember seeing this on direct examination Government
17 Exhibit 102AT, a transcript of a conversation you had with
18 Dr. Fishman on March 7, 2019?

19 A. I can't see the conversation.

20 Q. This is only a portion of that conversation, right, as far
21 as you remember?

22 A. As far as I know, yes.

23 Q. And one of the things that you were asking about here was,
24 what are people doing to get their red blood cell count up and
25 what?

M53BGIA2

Hall - Cross

1 A. Yes.

2 Q. What did you mean by that?

3 A. What else besides Epogen are people using.

4 Q. And what did you understand the doctor's response here to
5 mean to you?

6 A. I don't remember this at the time, but Thymosin and EPO
7 mimetics, something that was similar to Epogen, would raise red
8 blood cell count levels, but not be harmful.

9 Q. Was it your understanding after this conversation that the
10 doctor understood that you did not want to give your horse
11 Epogen?

12 A. I think before this conversation he understood that, yes.

13 Q. Is that also relevant in this conversation, as well?

14 A. I can't answer it for that. I don't know what he really
15 meant by this conversation.

16 Q. What did you understand it to mean at all?

17 A. I think that's what he was trying to say that he -- there
18 are things that's you can use that are similar to Epogen, but
19 not as harmful or as severe.

20 MR. FASULO: Can I see now 102C.

21 Q. Again, this is the portion of the same conversation on
22 3/7/2019 between you and Dr. Fishman.

23 Do you remember seeing this on your direct
24 examination?

25 A. Yes.

M53BGIA2

Hall - Cross

1 Q. Have you had the chance to read it and refresh your
2 recollection as to what that conversation was about?

3 A. Yes.

4 Q. What was it that you understood Dr. Fishman was telling you
5 in this portion of the conversation?

6 A. I believed that he had his own things that he was creating
7 and they were separate from anything else out there, so he
8 would give some things to one trainer, other things to another
9 trainer. So if one person got a positive, the other trainer
10 would be safe.

11 Q. Did you believe that there were different formulations that
12 the doctor was using for one trainer in his compounding versus
13 another trainer?

14 A. That's what it sounded like to me, yes.

15 MR. FASULO: Can I see 102F.

16 Q. Again, this is the same conversation, different time.

17 Can we now go to the body of the conversation.

18 You had a chance on direct to look at this
19 conversation, right?

20 A. Can I read it again?

21 Q. If not, why don't you read it now.

22 A. Yes.

23 Q. Can I draw your attention to line 2, where it says SF?

24 A. Yes.

25 Q. What did you understand Dr. Fishman to be saying to you at

M53BGIA2

Hall - Cross

1 that time?

2 What was your understanding?

3 A. I'm not really quite sure what he was trying to say there.

4 Q. Was this very similar to other conversations you had with
5 the doctor in terms of the clarity of the conversations that
6 you were having with him?

7 A. He would talk a lot.

8 Q. How much?

9 A. A lot.

10 Q. And would he be focused or would you say that was unfocused
11 conversation?

12 A. He would ramble a lot.

13 Q. And if you go to line 4 here, he talks about, on the bottom
14 of line 4, the words are that, "Then what you'll do is you'll
15 race your horse on Saturday and all that, and then when it's
16 time to take your CBC" -- did you understand what CBC was?

17 A. That's a complete blood count.

18 Q. "You'll take it 72 hours after they race to see how it
19 moves, all right."

20 A. Yes.

21 Q. Did you understand that taking the CBC 72 hours after a
22 race was in violation of any racing commission rules?

23 A. No, it's not. You can pull blood counts as often as you
24 like on a horse.

25 Q. Now, I'd just want to go back to some of the substances

M53BGIA2

Hall - Cross

1 that you said that you received from Seth Fishman, Dr. Seth
2 Fishman.

3 I think you said that you received TB-7?

4 A. Yes.

5 Q. You stated on direct that you are familiar with TP-7 was,
6 correct?

7 A. I'm not really familiar with what it was.

8 Q. And did you know whether it was a prescription drug or not
9 a prescription drug?

10 A. I believe it was something that he had created himself.

11 Q. And you know how it was to be administered to the horse?

12 A. Yes.

13 Q. How was that?

14 A. That was one that was supposed to be mixed together with
15 another one and administered in the vein.

16 Q. When you say administered in the vein, what was your
17 understanding of who can administer -- as a trainer, what was
18 your understanding of who can administer a drug in the veins of
19 a horse?

20 A. As a trainer, you're not allowed to administer anything to
21 a horse, injectable.

22 Q. But you did do that?

23 A. I did, yes.

24 Q. Let me ask you about the EGH. That was another drug that
25 you said you got from Dr. Fishman, correct?

M53BGIA2

Hall - Cross

1 A. Correct.

2 Q. And what's your understanding of what that was?

3 A. That he referred to as equine growth hormone.

4 Q. Did you know what that was?

5 A. I didn't know fully what it was, but he know I had a horse
6 that was tying up and he seemed to think that would help and I
7 thought it would probably help increase muscle.

8 Q. And when was it that -- did you ever give the EGH to your
9 horse?

10 A. I did to one of them, yes.

11 Q. When did you do that?

12 A. Probably the week before it raced. I think it was
13 something that you gave like seven days out.

14 Q. And did you give it seven days out because it was
15 permissible as far as you understood to give that to the horse
16 seven days out?

17 A. No, that was not permissible no matter what day it would
18 have been.

19 Q. So you gave it knowing that you were doing something wrong,
20 correct?

21 A. Yes.

22 Q. And how did you give that to your horse?

23 A. That was a IM, intermuscular shot.

24 Q. Would it be within the role of a trainer to be able to give
25 an intermuscular shot to a horse?

M53BGIA2

Hall - Cross

1 A. Again, as a trainer you're not supposed to be giving any
2 shot to your horses. I think they might make an exception if
3 there was an emergency situation, but --

4 Q. And then you also said that you used something called BB3,
5 correct?

6 A. Yes.

7 Q. And you ordered that from Dr. Fishman, correct?

8 A. I didn't order that. He had given me a sample of it.

9 Q. So you never ordered BB3?

10 A. No.

11 Q. And the only place you got it was from Dr. Fishman in
12 Florida, correct?

13 A. No, he had give me samples of it.

14 Q. And what did you understand that BB3 to do?

15 A. That I believe was a blood builder.

16 Q. What did you understand a blood builder was?

17 A. Something that would help increase the red blood cell
18 count.

19 Q. Why would you need to increase the red blood cell count in
20 a horse as far as you know?

21 A. I was hoping it would help them perform better and not get
22 tired.

23 Q. And what was your understanding about giving this BB3 to
24 the horse as it relates to the places where your horse was
25 racing?

M53BGIA2

Hall - Cross

1 A. Not allowed.

2 Q. And did you give the BB3 to your horse?

3 A. Yes.

4 Q. And did you again break the rules that existed?

5 A. I did, yes.

6 Q. And VO2 Max, you also got that from Dr. Fishman?

7 A. Yes.

8 Q. And what did you understand that to do?

9 A. You know, it was labeled as a blend. One dose amino acids.
10 I didn't really know fully what it was for, but I believe that
11 it was for getting more energy, oxygen, somehow improving their
12 performance.

13 Q. You said you did give VO2 Max to your horse, correct?

14 A. Yes.

15 Q. And you did give it to one of your horses the day of the
16 race, correct?

17 A. Yes.

18 Q. And you also gave it to the horse you said before workouts,
19 correct?

20 A. I did on a few occasions, yes, but I did give it on a race
21 day too.

22 Q. And it was when you gave it on the race day that you were
23 breaking the racing commission's rules and regulations,
24 correct?

25 A. I think any day I was not supposed to be giving it, but

M53BGIA2

Hall - Cross

1 specifically on a race day, yes, that was not allowed.

2 Q. You also stated that you received -- that at times you
3 would call Lisa Ranger to order some product; is that right?

4 A. Correct.

5 Q. And you placed orders with her?

6 A. Correct.

7 Q. And those were orders of drugs or items that you had
8 already received from Dr. Fishman in Florida that you wanted
9 refilled to redo?

10 A. No.

11 Q. Were there new things that you ordered from Lisa Ranger?

12 A. The very last order I placed, I ordered two bottles of the
13 VO2 Max which I had gotten the samples of that from
14 Dr. Fishman.

15 Q. You had already got a sample from Dr. Fishman?

16 A. Correct.

17 Q. And then you called Lisa Ranger and you then ordered them,
18 correct?

19 A. I think I emailed her, yes.

20 (Continued on next page)

21

22

23

24

25

M536GIA3

Hall - Cross

1 BY MR. FASULO:

2 Q. I'm sorry, you e-mailed her?

3 A. Some -- somehow I ordered it.

4 Q. Can we look at 608, please, just so we're clear.

5 Is this the final time that you ordered from
6 Equestology?

7 A. I believe that was my last invoice with them, yes.

8 Q. And in this invoice, you'll see that you -- let me mark it
9 there like that.

10 You'll see VO2 on the first line, correct. And, in
11 fact, when you put this order on, you had already received a
12 sample from Dr. Fishman in Florida?

13 A. Correct.

14 Q. So this was not something new, correct?

15 A. Correct.

16 Q. And what was folic 5x 100 CC?

17 A. That's folic acid. It's a vitamin.

18 Q. What was the next item on the invoice here?

19 A. Vitamin C.

20 Q. Okay. And the next item?

21 A. Vitamin B12.

22 Q. And the final item, 1 eq postal?

23 A. That was the shipping charge.

24 Q. So other than the VO2 max, which you had already gotten a
25 sample of in Florida, these items were all vitamins, correct?

M536GIA3

Hall - Cross

1 A. Correct.

2 Q. Other than -- well, where else were you able to get these
3 vitamins as a trainer during the period you testified here
4 today?

5 MS. MORTAZAVI: Objection. Vague.

6 THE COURT: Do you want to fix the time, please?

7 MR. FASULO: Sure.

8 Q. It was during the time you were a trainer and that you
9 testified you worked with horses directly. Where else would
10 you get your vitamins?

11 A. So you mean from the end of 2017 to --

12 Q. This time, any time that you owned the horses and that you
13 were either an owner or trainer, where would you purchase
14 vitamins?

15 A. The only place besides a vet's truck would have been from
16 the other person I mentioned in Ohio or Equestology.

17 Q. At any time that you had phone conversations, did you have
18 any phone conversations with Ms. Ranger other than the initial
19 conversation we heard here in court?

20 A. I honestly don't remember.

21 Q. At any time that you had any communication, whether it be
22 by phone, e-mail, text, did you ever ask Lisa Ranger for
23 medical advice?

24 A. I don't believe so, no.

25 Q. Did she ever give you medical advice?

M536GIA3

Hall - Redirect

1 A. No.

2 Q. You also stated that you dealt with a woman, Mary in
3 Florida, correct?

4 A. Correct.

5 Q. And what did you understand Mary's role to be?

6 A. I really wasn't quite sure what her role was, if she was
7 just an assistant, a friend. I really was not sure if she
8 worked for the company or not.

9 Q. And in terms of the company Equestology that appeared on
10 the top of the document we just saw, what was your
11 understanding of who owned that company?

12 A. Dr. Seth Fishman.

13 MR. FASULO: No further questions, Judge.

14 THE COURT: Thank you.

15 Redirect.

16 MS. MORTAZAVI: Only a few questions, your Honor.

17 THE COURT: Okay.

18 REDIRECT EXAMINATION

19 BY MS. MORTAZAVI:

20 Q. Ms. Hall, do you recall being asked a few questions about
21 VO2 max?

22 A. Yes.

23 Q. You testified that you believed you weren't supposed to
24 administer it race day, correct?

25 A. Correct.

M536GIA3

Hall - Redirect

1 Q. Were you permitted to administer any injectable medications
2 to your racehorse as a trainer on any day?

3 A. No.

4 Q. And, Ms. Hall, how often did you race your horses?

5 A. Do you mean like monthly or --

6 Q. Exactly. How frequently would you race your horses?

7 A. Technically, they race weekly, but I sometimes -- I would
8 race every other week depending on how they were doing.

9 Q. Why were they racing that frequently?

10 A. It's interesting. It's very different from the
11 thoroughbreds, but standardbreds, it's normal to race every
12 week. That's their schedule.

13 Q. Normal for you or normal as you understand it generally?

14 A. It's an industry norm.

15 Q. And you were receiving a number of samples from
16 Seth Fishman, correct?

17 A. Correct.

18 Q. You received them on more than one occasion?

19 A. Correct.

20 Q. Did you use all the samples of drugs that Seth Fishman gave
21 you?

22 A. No.

23 Q. Why did you -- why didn't you use all the samples?

24 A. It just was a little complicated for me and a little scary.
25 I didn't want to mess it up. It was -- I didn't feel

M536GIA3

Hall - Redirect

1 comfortable.

2 Q. Can you describe what was complicated about it?

3 A. Just the mixing and the colors and the withdraw time.

4 Q. What was scary about it?

5 A. I didn't want to mix the wrong thing or give the wrong
6 day -- or you know, I didn't know what would happen if I mixed
7 two things different or --

8 Q. What did you think would happen?

9 A. I would have hurt the horse.

10 Q. And at the time you were using these medications from
11 Seth Fishman, you testified that you didn't think you were
12 breaking a federal law, correct?

13 A. Correct.

14 Q. Did you believe that you were deceiving the racing
15 commission?

16 A. Yes.

17 Q. How did you feel about what you were doing at the time you
18 were doing it?

19 A. Not good. I knew it was wrong.

20 Q. Why are you testifying here today, Ms. Hall?

21 A. I'm testifying here today because I really -- I do want to
22 make a difference in this industry, and I think this is how I
23 can do it. And like I said, this business is in desperate need
24 of help, and so are the horses and all the industry
25 participants, and I think this is going to make a difference.

M536GIA3

Hall - Redirect

1 I hope it makes a difference.

2 Q. And, Ms. Hall, you were asked questions about your
3 nonprosecution agreement. Do you recall those?

4 A. Yes.

5 Q. Does the outcome of this trial have any barring on that
6 nonprosecution agreement?

7 A. No.

8 Q. Did you enter that agreement because you wanted protection
9 here today?

10 A. To be honest with you, I -- I didn't even think that it was
11 necessary, but I'm -- yes. That's, I guess, the point of it,
12 yes.

13 MS. MORTAZAVI: All right. No further questions, your
14 Honor.

15 THE COURT: Thank you. Any recross, Mr. Fasulo?

16 MR. FASULO: One second, Judge.

17 No, I'm fine, Judge.

18 THE COURT: All right. Thank you, Ms. Hall. You're
19 excused with the thanks of the Court.

20 THE WITNESS: Thank you.

21 (Witness steps down)

22 THE COURT: The government's next witness.

23 MS. MORTAZAVI: Your Honor before calling our next
24 witness, I'll display an exhibit for the jury.

25 THE COURT: Why don't you wait for Ms. Hall to leave?

M536GIA3

Hall - Redirect

1 MS. MORTAZAVI: Certainly. All right.

2 For the record, the witness has left the courtroom.

3 Ms. Jung, if you could please display Government
4 Exhibit 320FJ, which, for the record, is already in evidence as
5 a record that was produced by Equestology.

6 Can you focus on the top three -- I'm sorry. The top
7 four messages here?

8 For the record, your Honor, this is a text exchange
9 between Seth AA and a contact listed as Lisa Ranger Cell. And
10 the text message is sent from Seth AA on October 21, 2018, at
11 5:52 p.m.: Just landed in California and got this next. Hi.
12 My name is Adrienne, and I'm a harness trainer at Sunshine
13 Meadows. I got your number from Lisa. I was wondering if you
14 can help me come up with some prerace options for a new horse I
15 just got in. I can e-mail you his most recent blood work if
16 so.

17 And the response from Lisa Ranger Cell that same day
18 at 5:54 p.m.: She's going to send you a blood work that she
19 has. She is a referral of Daniel Maier, and has been ordering
20 supplies from us. Go ahead and talk to her. She doesn't have
21 much knowledge, as you can surmise, from the text. Old
22 Policino client. Tired of his BS.

23 And October 23, 2018, 10:19 a.m., from Lisa Ranger
24 Cell: Hey, can you please try to call that Adrienne Hall
25 today?

M536GIA3

Hall - Redirect

1 Ms. Jung, can you please turn to page 3 of Government
2 Exhibit 320FJ. Can you focus on the top three text messages,
3 please?

4 I'm going to read into the record the text message
5 that is dated December 19, 2018, 10:51 a.m. from Lisa Ranger
6 Cell, there's an attachment and then: Adrienne Hall is going
7 to text you. Can you please get up with her when you get a
8 chance. She has some questions.

9 Ms. Jung, you can take down this exhibit. Your Honor
10 the government calls Rita Noblett.

11 THE COURT: Good afternoon, Ms. Noblett. If you would
12 please just stand here in the witness stand, take off your
13 mask, and once you're situated, my courtroom deputy will
14 administer the oath.

15 THE WITNESS: Okay.

16 DEPUTY CLERK: Please raise your right hand.

17 RITA NOBLETT,

18 called as a witness by the Government,

19 having been duly sworn, testified as follows:

20 DEPUTY CLERK: Thank you. Please state and spell your
21 name for the record

22 THE WITNESS: Rita Noblett.

23 DEPUTY CLERK: You can please have a seat and adjust
24 the microphone to where you're sitting.

25 THE COURT: Mr. Gianforti.

M536GIA3

NobleTT - Direct

1 MR. GIANFORTI: Thank you, your Honor.

2 DIRECT EXAMINATION

3 BY MR. GIANFORTI:

4 Q. Good afternoon, Ms. NobleTT.

5 A. Hi.

6 Q. Ms. NobleTT, where do you work?

7 A. I am retired.

8 Q. Where did you work last prior to your retirement?

9 A. I was employed by the Pennsylvania Department of
10 Agriculture in Thoroughbred Horseracing.

11 Q. Was there a particular part of the Department of
12 Agriculture in which you worked?

13 A. I was a special investigator stationed at Parks Racetrack,
14 which is in Bensalem, Pennsylvania.

15 Q. Thank you. Ms. NobleTT, if you could pull the mic close to
16 your face and try to keep your voice up for everybody? We tell
17 everybody that.

18 A. I'd like to know if I could turn it up so I can hear you.

19 Q. Absolutely.

20 THE COURT: Pull the microphone up.

21 MR. GIANFORTI: I should take the advice I give.

22 Q. Ms. NobleTT, are you familiar with the Pennsylvania State
23 Racing Commission?

24 A. Yes, I am.

25 Q. Is that where you worked?

M536GIA3

Noblett - Direct

1 A. Yes.

2 Q. What was your position at the time that you retired?

3 A. I was a special investigator 1.

4 Q. How long were you a special investigator with the racing
5 commission?

6 A. I started in 2014, and I retired in 2021. So I held that
7 position for about six and a half years.

8 Q. Could you please describe to the jury what some of your
9 responsibilities were as a special investigator with the
10 Pennsylvania Racing Commission?

11 A. Sure. I will kind of take it through my day, and then if I
12 recall anything in addition to that, I'll let you know.

13 In the morning, it was basically office work. What I
14 did first was got all of the information from the previous
15 day's races from the detention barn. It was an envelope with
16 the names of all the horses that they tested. And after I
17 received them, they were identified just by a sample number,
18 but we had to wait for the results to come back for those
19 tests. Either they were negative or they were positive. If
20 they had a questionable outcome, they were put on hold until
21 they were deemed either clear or positive. That was done on a
22 daily basis.

23 And we would get replies from the lab, and we would
24 correspond with the bookkeeper until they were cleared. So
25 that was a constant thing. And each sample was -- that was not

M536GIA3

Noblett - Direct

1 clear or deemed questionable, we made a file for with all the
2 information that was on the sheet; the owner, the trainer, the
3 horse. That was done without short-term holds.

4 We then got information from the state vets. We got
5 daily treatment sheets. We got dead horse reports. We got a
6 report from our head state vet which reflected all prescription
7 drugs, who they were prescribed to, the dosage, and the
8 expiration date. We made a file for that. If --

9 Q. Can I pause you there, Ms. Noblett, for a moment?

10 A. Sure.

11 Q. You were talking a moment ago about the state lab and about
12 results that you would get back.

13 A. Yes.

14 Q. During your time with your racing commission, what's your
15 general understanding of what the lab was looking for?

16 A. They were looking for any presence of overages, anything
17 that would deem the horse positive, which was basically drugs.
18 We knew nothing about what drugs they were testing for, and we
19 were told not to contact the lab because they didn't want any
20 interaction between the investigators and the lab. Strictly
21 sample numbers. But they were looking for the presence of a
22 foreign substance.

23 Q. You can continue going through your day as a special
24 investigator. Thank you.

25 A. In the morning, if there was anybody applying for a license

M536GIA3

Noblett - Direct

1 of any kind that listed an arrest, we would have to interview
2 them. We assisted with fingerprinting if we needed -- if an
3 applicant needed it. Human drug testing as well. We were
4 responsible for collecting those samples and packaging them and
5 transporting them to a lab to be analyzed and follow-up with
6 that.

7 We also -- or I also -- we had preprinted trainers
8 tests. There were about four -- or three different packages of
9 them in the computer. There were a series of 50 questions. We
10 would administer the trainers -- the physical trainers test in
11 question form. I think there were 50 to the applicant.
12 They -- we logged in the time they started and the time they
13 finished. They were then packaged and sent up to Harrisburg to
14 the director of licensing to be graded, and then he would
15 e-mail us with pass or fail for each applicant. We did that.

16 We also -- this was a while ago. I retired in '21.
17 We also reserved the morning for any searches because that was
18 the busy time on the backside of the racetrack. If there was a
19 positive, part of that positive investigation was after telling
20 the trainer they had a positive, we would prepare the
21 paperwork, take it to the barn and do a barn search.

22 Q. Can I pause you for just one moment? When you say
23 backside, what do you mean by that?

24 A. It's kind of racetrack lingo. The backside is the barn
25 area. Our licensing office was adjacent to the barn area, and

M536GIA3

NobleTT - Direct

1 the front side is considered the racetrack, the paddock, that
2 area.

3 Q. And, Ms. NobleTT, were you involved in -- are you familiar
4 with the concept of releasing purses?

5 A. Yes.

6 Q. And what does that mean?

7 A. We would actually type up a little paper that told the
8 bookkeeper to either hold the purse on the following horses,
9 which were questionable, and then release the ones that had
10 been cleared. That's basically how that worked.

11 Q. Cleared by who?

12 A. The lab.

13 Q. And, Ms. NobleTT, what did you do for the racing commission
14 prior to becoming a special investigator?

15 A. My husband was a trainer, so I was licensed probably for
16 the first time in the mid-80s. And we went to various tracks
17 but returned to Parks probably -- probably around 2014. I was
18 a groom for my husband, and then I worked -- I only worked part
19 time for the racing commission in the test barn at the same
20 time I was a groom.

21 MR. GIANFORTI: Your Honor, I'm conscious of the time.
22 I'm happy to keep going for another 10 minutes or so, whatever
23 you prefer.

24 THE COURT: Why don't we keep going until 1:00 o'clock
25 and find a convenient breaking point around 1:00 o'clock?

M536GIA3

NobleTT - Direct

1 MR. GIANFORTI: Thank you, your Honor. Happy to.

2 Q. Ms. NobleTT, during the period of time that you worked for
3 the Pennsylvania Racing Commission, what was your understanding
4 of the racing commission's mission?

5 A. We were just to with -- hold the best standards of racing.

6 Q. During your time at the racing commission, did the racing
7 commission enforce any rules?

8 A. Yes.

9 Q. Which rules?

10 A. There was a whole book of rules. When we administered --
11 or prior to administering the trainers test, if an applicant
12 came up -- until maybe a year or so -- I might have that time a
13 little -- I'm not quite sure about that time. But we always
14 used to give an actual book which contained the rules of racing
15 to each applicant so they understood everything before they
16 took the test because part of the test was about the rules of
17 racing.

18 Q. What, if any, jurisdiction did the racing commission have
19 during your time there over veterinarians specifically?

20 A. Well, each veterinarian was supposed to hand in a daily
21 treatment sheet, and that sheet had on it the name of the
22 horse, the name of the trainer, and the exact dosage of any
23 medications that were administered.

24 Q. And would that apply to veterinarians licensed in the state
25 of Pennsylvania?

M536GIA3

Noblett - Direct

1 A. The ones on our racetrack, those are the only -- I mean
2 they're all licensed in the state of Pennsylvania in order to
3 be there, but those are the only ones we've received from our
4 track.

5 Q. What, if any, jurisdiction did you have as a special
6 investigator over veterinarians that were not on the racetrack?

7 A. None.

8 Q. I believe you testified a moment ago --

9 A. Let me answer that.

10 Q. Sure.

11 A. If they were licensed with us in Pennsylvania, we had
12 jurisdiction. If they weren't licensed with us, we had none.

13 Q. I see. I believe you testified a moment ago that you -- as
14 part of your duties as a special investigator, you conducted
15 searches; is that right?

16 A. Correct.

17 Q. And I believe you also testified that the racing commission
18 had the power to conduct those searches?

19 A. Correct.

20 Q. As a general matter, when was the commission allowed to
21 conduct a search during your time there?

22 A. Whenever we deemed necessary. We could search your
23 vehicle, your barn, whatever.

24 Q. All right. At any time?

25 A. At any time.

M536GIA3

Noblett - Direct

1 Q. During your time at the commission, did you participate in
2 the execution of any searches?

3 A. Absolutely. We were required to do two barn searches and
4 two vehicle searches per month. And they were all logged, and,
5 you know, that was just part of our job. We also searched
6 jockeys' room or any other things. But they required us to
7 search the jockeys' room, barn searches, and vehicle searches.

8 Q. Fair to say you could search anything on the premises of
9 the racetrack?

10 A. Off the premises?

11 Q. On the premises.

12 A. Anything.

13 Q. And if you had to estimate, how many searches do you think
14 you participated in over the course of your career?

15 A. Over -- hundreds.

16 Q. Ms. Noblett, directing your attention to February 3, 2020,
17 did you participate in a search involving somebody named
18 Silvio Martin?

19 A. I did.

20 Q. Who was Silvio Martin?

21 A. He was a licensed owner/trainer with the racing commission,
22 and he was stabled at Parks.

23 Q. Prior to your encounter with Silvio Martin on February 3,
24 2020, had you had any prior encounters with him?

25 A. I searched his barn probably about a year earlier. Just a

M536GIA3

Noblett - Direct

1 random search like I just told you about. And I found an
2 unmarked container of tyrosine, which, you know, shouldn't have
3 been in the barn. I confiscated it. And I had never met
4 Silvio. Even after searching his barn, I didn't meet him. He
5 was never there. I had to speak to his assistant. And I
6 interviewed the assistant, I believe at that time, and I
7 interviewed Silvio. And they told me that that medication was
8 for a horse that hadn't -- that hadn't been used in a year, but
9 he wanted it back, so...

10 Q. Ma'am, what was the name of that horse; if you recall?

11 A. Paper Moon.

12 Q. Okay.

13 MR. GIANFORTI: Your Honor, I think this would be a
14 convenient time.

15 THE COURT: That's fine. So, ladies and gentlemen, we
16 will take our break now. If we can be back at 1:45 or so?
17 It's a little bit before 1:00 now. So please leave your
18 notepads on your chair, and I remind you again, please do not
19 talk about the case, about the lawyers, about the witnesses,
20 about the issues in the case among each other or with anyone.

21 Thank you very much.

22 And I remind the witness, you'll remain under oath,
23 but please do not discuss your testimony with anyone during the
24 break. And if you could just remain there until the jury
25 leaves? Thank you.

M536GIA3

Noblett - Direct

1 (Jury not present)

2 THE COURT: All right. Please be seated.

3 You may put your mask back on and step down from the
4 witness stand. Thank you.

5 (Witness steps down)

6 THE COURT: If you would just check with Ms. Dempsey
7 that the path is clear, Agent?

8 MS. MORTAZAVI: Your Honor, there is a conference room
9 that the witness could stay in while the jurors exit, if the
10 Court would prefer?

11 THE COURT: Some of them are in that vestibule.
12 That's the problem.

13 MS. MORTAZAVI: Certainly.

14 THE COURT: If one of you want to go back -- I don't
15 know who's in the back, which of the special agents. If you
16 want to go back and let him know that -- oh, okay, seems clear.
17 Thank you.

18 All right. Is there anything for the record that we
19 need to discuss?

20 MR. GIANFORTI: Not from the government.

21 MR. FASULO: Not from the defense.

22 THE COURT: All right. Everyone, have a good lunch.
23 I'll see you at about 1:45.

24 (Lunch recess)

25

M53BGIA4

Noblett - Direct

AFTERNOON SESSION

1:45 p.m.

(Jury not present)

THE COURT: I need to speak with you all at some point about jury instructions as well, not the charging conference itself, but just a couple of things I want you to focus on.

So depending on where we're at, it may be that it makes sense to break at the end of the government's case if you think you're going to get there today, but let's just see where we're at.

MR. FASULO: We're fine with whatever the Court decides, but that does make sense to me.

THE COURT: We'll see where we're at. This is not your last witness?

MS. MORTAZAVI: No, your Honor. Dr. Cole is our last witness. We're happy to have that conference at the close of today, regardless of where we are with the defense is. If the Court wants to just have --

THE COURT: That's what we're going to do. Either way we're going to break a little bit early, it just depends on where we're at.

MR. FASULO: Judge, if I can ask to begin, they will not come in because they'll all the way back at the office still.

THE COURT: They can come in through the side. No

M53BGIA4

Noblett - Direct

1 problem. Thank you.

2 MR. FASULO: I don't want to hold up the Court.

3 (Continued on next page)

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M53BGIA4

Noblett - Direct

1 (Jury present)

2 THE COURT: Can one of our agents retrieve the
3 witness, please.

4 Good afternoon, Ms. Noblett. You can have a seat and
5 remove your mask and I will just remind you that you remain
6 under oath.

7 THE WITNESS: Yes.

8 THE COURT: Mr. Gianforti, please.

9 BY MR. GIANFORTI:

10 Q. Ms. Noblett, I would like to turn your attention back to
11 the search that you conducted on February 3, 2020, if I could?

12 A. Okay.

13 Q. What exactly did you search?

14 A. I was in my office. I needed a partner because we always
15 searched with two people. I asked the field investigator to
16 come with me. There were two vans --

17 THE COURT: The question was, what did you search.

18 A. I'm saying we searched a van and a truck.

19 Q. When you say a van, what do you mean by that?

20 A. There was a horse van attached to the truck, pick-up truck.

21 Q. You said that somebody else helped you with this; is that
22 right?

23 A. Yes.

24 Q. Who was that?

25 A. That was the field investigator Joyce Kleppinger.

M53BGIA4

Noblett - Direct

1 Q. Why did you search Sylvio Martin's truck and van?

2 A. It was just a random search.

3 Again, we had to do two vehicle searches a month, and
4 he was coming through the gate. I asked him to pull over.

5 Q. Where did the search occur?

6 A. They had signed a horse into the racetrack, and then they
7 went through the gate. And as soon as they got through the
8 gate, I asked them to pull over into the parking lot.

9 Q. Who, if anyone, did you encounter during the search?

10 A. It was the owner-trainer Sylvio Martin, his assistant
11 trainer Ernesto Padilla Presciado (ph) and there was a minor
12 also in the truck.

13 Q. What were you looking for?

14 A. Nothing in particular, just any kind of contraband, any
15 kind of drugs, anything.

16 Q. How did you and Ms. Kleppinger go about conducting the
17 search?

18 A. I asked her, I said, look, you go in the passenger side.
19 I'll go on the drivers side. We'll start in the truck and
20 we'll just move back.

21 MR. GIANFORTI: I'd now like to show you a collection
22 of photographs. If I may approach, your Honor?

23 THE COURT: Yes.

24 MR. GIANFORTI: And for the record. These are marked
25 for identification as Government Exhibits 15003 through 15009.

M53BGIA4

NobleTT - Direct

1 BY MR. GIANFORTI:

2 Q. Ms. NobleTT, do you recognize these photos?

3 A. Yes.

4 Q. What are they?

5 A. This is what was found inside the truck itself.

6 Q. And looking at the collection as a whole, do you recognize
7 this collection in general?

8 A. Yes, I took the photos.

9 Q. You took these photos?

10 A. Yes.

11 Q. And in general, what are they photos of?

12 A. The shipping box with the medications and the needles.

13 Q. Are these photos you took during your search?

14 A. Yes, they were behind the seat.

15 Q. I'll just stop you there, Ms. NobleTT.

16 MR. GIANFORTI: Your Honor, the governments offers
17 Government Exhibits 15003 through 15009.

18 MR. FASULO: May I just see them. I have copies. I
19 just want to confirm what I have.

20 THE COURT: Yes.

21 MR. FASULO: No objection.

22 THE COURT: All right. These photos will be received
23 in evidence.

24 (Government's Exhibits 15003 through 15009 received in
25 evidence)

M53BGIA4

NobleTT - Direct

1 MR. GIANFORTI: Thank you, your Honor. Ms. Jung,
2 could you please publish the first page of Government Exhibit
3 15003 for the jury.

4 BY MR. GIANFORTI:

5 Q. Ms. NobleTT, what is depicted here?

6 A. This was found behind the driver seat. It's a shipping box
7 with injectables and a box of needles.

8 Q. What items did you find in this box?

9 A. There was a 250 milligram boxed bottle of Banamine. There
10 was a 100 milligram -- milliliter, I'm sorry, milliliter,
11 bottle of dexamethasone and 200 milliliter bottles of
12 phenylbutazone as well as the injectable, the needles.

13 MR. GIANFORTI: Ms. Jung, could you pull up the fourth
14 page of this exhibit, please.

15 Q. Ms. NobleTT, what's depicted in this picture?

16 A. That was located behind the passenger seat and that is also
17 a box of 100 disposable syringes.

18 MR. GIANFORTI: Ms. Jung, could you now please bring
19 up Government Exhibit 15007.

20 Q. Ms. NobleTT, there's a number of photos that are part of
21 this exhibit and you have the hard copy, so it may be easier
22 for you to flip through if that's easier for you.

23 Ms. NobleTT, what are the pictures in 15007, what do
24 they depict?

25 A. That is the bottle of Banamine.

M53BGIA4

Noblett - Direct

1 Q. That was recovered from where?

2 A. Behind the driver seat in the shipping box.

3 Q. Are you familiar with Banamine?

4 A. Yes.

5 Q. What is it?

6 A. It's an anti-inflammatory medication that reduces swelling
7 and it's good for pain.

8 Q. And the format that we see here, how is this particular
9 format of Banamine administered to a racehorse?

10 A. By hypodermic needle.

11 Q. During your time with the Pennsylvania Racing Commission,
12 did the commission regulate Banamine usage in racehorses?

13 A. Yes.

14 Q. During your time at the racing commission, were you
15 permitted to give Banamine to a racehorse on the day of a race?

16 A. No.

17 Q. And in looking through this collection of photos of the box
18 of Banamine, do you see a prescription label on this box
19 anywhere?

20 A. No.

21 Q. Do you see a name of the veterinarian?

22 A. No.

23 Q. Do you see the name of a particular horse?

24 A. No.

25 MR. GIANFORTI: Ms. Jung, could you please pull up

M53BGIA4

NobleTT - Direct

1 Government Exhibit 15006.

2 And again for the record, this is a collection of more
3 than one photograph.

4 Q. Ms. NobleTT, what do these pictures depict?

5 A. That is a bottle of phenylbutazone.

6 Q. Do you know which bottle of phenylbutazone it is?

7 A. There were two. I took photographs of both of them.

8 Q. That you found in the truck?

9 A. Yes.

10 Q. Is phenylbutazone sometimes referred to as Bute?

11 A. Yes.

12 Q. What is Bute?

13 A. It's also an anti-inflammatory medication for swelling and
14 also for pain.

15 Q. When it comes in this format that we see here on the
16 screen, how is it administered to a racehorse?

17 A. A hypodermic needle.

18 Q. During your time with the racing commission, did the
19 commission regulate Bute usage in racehorses?

20 A. Yes.

21 Q. Were you permitted to give Bute to a racehorse on a day of
22 the race?

23 A. No.

24 Q. In looking through these photos, do you see a prescription
25 label on the bottle?

M53BGIA4

Noblett - Direct

1 A. No, I do not.

2 Q. Do you see the name of a veterinarian?

3 A. No.

4 Q. Do you see the name of a particular horse?

5 A. No.

6 MR. GIANFORTI: And, Ms. Jung, if you could please
7 pull up Government Exhibit 15005.

8 And, again, for the record, there are more than one
9 photo in this collection.

10 Q. Ms. Noblett, what do these pictures depict?

11 A. That is the bottle of dexamethasone.

12 Q. That was found where?

13 A. Also behind the drivers seat in the shipping box.

14 Q. Are you familiar with this product?

15 A. Yes.

16 Q. What is it?

17 A. It's also an anti-inflammatory and it's also used for pain.

18 Q. And --

19 A. Well, I'd say pain in addition to it being an
20 anti-inflammatory.

21 Q. And when this drug comes in this format, how it is
22 administered to a racehorse?

23 A. By hypodermic needle.

24 Q. During your time with the racing commission, did the
25 commission regulate the use of dexium in racehorses?

M53BGIA4

Noblett - Direct

1 A. Yes.

2 Q. Were you permitted to give dexium to a racehorse on the day
3 of a race?

4 A. No.

5 Q. Looking through these photos, Ms. Noblett, do you see a
6 prescription label on the bottle?

7 A. No, I do not.

8 Q. Do you see the name of a vet?

9 A. No.

10 Q. Do you see the name of a particular horse?

11 A. No.

12 MR. GIANFORTI: All right. You can take that down,
13 Ms. Jung. Thank you.

14 Q. Ms. Noblett, during your time as a special investigator
15 with the racing commission, were trainers permitted to give any
16 drugs to a racehorse on race day under the Pennsylvania rules?

17 A. No, they were not.

18 Q. And, Ms. Noblett, I asked you a few times about
19 prescription labels, the name of a vet, the name of a horse and
20 whether those appeared on the products. Do you remember that?

21 A. Yes.

22 Q. Are you familiar with the term "veterinarian-client-patient
23 relationship" or VCPR?

24 A. Yes.

25 Q. In that relationship, who is the client?

M53BGIA4

Noblett - Direct

1 A. The client is the owner-trainer, but it's also the horse.

2 Q. Well, who's the patient?

3 A. The patient is the horse.

4 Q. And based on your experience with the racing commission,
5 what does the term "VCPR" mean to you?

6 MR. FASULO: Objection, foundation.

7 THE COURT: Overruled.

8 Q. You can answer.

9 A. The term to me, you can kind of relate it to your own
10 doctor. The horse would be the patient, so you would have the
11 doctor examine the horse, evaluate it, make a determination on
12 if it needed treatment at all and then treat it, just like your
13 own doctor without going to see him and getting a diagnosis or
14 an examination, he's not going to give you drugs.

15 MR. FASULO: Objection.

16 THE COURT: Sustained. You've answered the question.
17 Move on, Mr. Gianforti.

18 Q. Ms. Noblett, in your capacity as a special investigator for
19 racing commission, did you investigate whether trainers had
20 valid VCPRs with their purported vets?

21 A. Yes.

22 Q. Why did you do that?

23 A. It's a requirement by the racing commission that each vet
24 submits a daily treatment sheet. Everything is recorded,
25 filed. We use it if there's a positive, that's what it's for.

M53BGIA4

Noblett - Direct

1 Q. How would you verify if a trainer has a valid VCPR with a
2 particular vet?

3 A. Through that form.

4 Q. What, in your experience, as a special investigator --
5 what, if anything, would indicate to you that a trainer did not
6 have a valid VCPR with a particular vet?

7 A. Again, it's all verified. They're required to submit that
8 form. So if it's not on there and the horse comes up with
9 anything, we can verify it.

10 Q. Ms. Noblett, focusing on the hypodermic needles and
11 syringes that you found in Sylvio Martin's truck, are those
12 items that the racing commission regulated during your time
13 there?

14 A. Yes.

15 Q. And during your time with the racing commission, what was
16 your understanding of the general rules around trainers
17 possessing hypodermic needles?

18 A. They were not allowed to possess them. It was just
19 licensed veterinarian that were allowed to use and have them in
20 their possession.

21 MR. GIANFORTI: Ms. Jung, could you please pull up and
22 turn to the second page of Government Exhibit 15003, and if you
23 could zoom in on that white label at the bottom, please. We'll
24 take the zoomed out view for a moment.

25 Q. Ms. Noblett, what are we looking at here?

M53BGIA4

NobleTT - Direct

1 A. That was the shipping label that was affixed to the box
2 with -- that you're looking at with the injectables and the
3 needles.

4 MR. GIANFORTI: Ms. Jung, if you could please zoom in
5 on the shipping labels.

6 Q. Ms. NobleTT, based on this label, who does it appear that
7 this box was shipped to?

8 A. To?

9 Q. To.

10 A. It was shipped to Equestology at 125 Jennifer Lane in
11 Felton, Delaware.

12 Q. Does it appear it was shipped to a particular person as
13 well?

14 A. Equestology was the only recipient.

15 Q. What does it say immediately above Equestology?

16 A. What does it say about it?

17 Q. What does it say immediately above Equestology?

18 A. Dr. Seth Fishman.

19 MR. GIANFORTI: All right. You can take that down,
20 Ms. Jung.

21 Q. Ms. NobleTT, calling your attention to February 10, 2020,
22 did you participate in another search involving Sylvio Martin?

23 A. Yes.

24 Q. Could you tell the jury a little bit about that, please?

25 A. We went to Sylvio's barn. He was not there, so I

M53BGIA4

Noblett - Direct

1 approached his assistant and I told him we were there to do a
2 barn search.

3 And he said, well, Sylvio isn't here. So I said, I
4 have to have permission. he goes, well, go ahead. I said
5 okay, so we did.

6 Q. Did your search turn up anything of note?

7 A. No.

8 MR. GIANFORTI: Ms. Jung, could you please pull up for
9 the witness, but not for the jury, Government Exhibit 15001,
10 please.

11 Q. Ms. Noblett, are you familiar with this document?

12 A. This was an invoice that was faxed to us by Sylvio Martin
13 in reference for -- I asked him for that. When I interviewed
14 him, if he could produce a receipt or an invoice, and that's
15 what he sent us via fax.

16 MR. GIANFORTI: Your Honor, the government offers
17 Government Exhibit 15001.

18 MR. FASULO: No objection.

19 THE COURT: It is received in evidence.

20 (Government's Exhibit 15001 received in evidence)

21 THE COURT: You may publish it to the jury.

22 BY MR. GIANFORTI:

23 Q. Ms. Noblett, who does this invoice appear to have been
24 issued by?

25 A. Who generated it?

M53BGIA4

Noblett - Direct

1 Q. Yes.

2 A. Equestology.

3 Q. Is there an address associated with Equestology?

4 A. 125 Jennifer Lane, Felton, Delaware.

5 Q. And do you see the itemized list in sort of the middle of
6 the screen?

7 A. Yes.

8 Q. And do you see where it says syringes?

9 A. Yes.

10 Q. And immediately to the left of that, what do you see?

11 A. I see that it was -- the services were 2/2/20 and it was
12 for the horse Paper Moon.

13 Q. Is Paper Moon the name of the horse that you mentioned
14 earlier in your testimony?

15 A. Yes.

16 Q. Could you just refresh the jury on what your general
17 understanding of Paper Moon's reputation was at that point in
18 time?

19 MR. FASULO: Objection.

20 THE COURT: Sustained.

21 Please clarify the question.

22 Q. What, if anything, did you know about Paper Moon at this
23 time?

24 A. Well, from the previous search, the name Paper Moon was
25 brought up. The horse was not on the track and they told me

M53BGIA4

Noblett - Direct

1 that that particular medication was for her and was not used
2 for a year, so we assumed that horse went to the farm.

3 MR. FASULO: Objection.

4 THE COURT: Sustained. The part of the answer after
5 "we assumed" is stricken. The witness can't assume. They can
6 only tell you what they actually know, so the jury is directed
7 to disregard the balance of the answer after we assume.

8 BY MR. GIANFORTI:

9 Q. Ms. Noblett, were you involved in interviewing Sylvio
10 Martin in connection with your investigation?

11 A. Yes.

12 Q. How many times?

13 A. Twice.

14 Q. When was the first time you interviewed him?

15 A. The day of the search.

16 Q. When was the second time that you interviewed him?

17 A. I tried to get a hold of him numerous times and his
18 assistant always told me he's working, can't be disturbed until
19 afternoon, so he never responded.

20 So I called and left a message on his phone, and I
21 said, look, I need you to come in for an interview. These are
22 the office hours, you know, please come in.

23 He didn't respond to that call until I went up to do
24 the barn search and I believe he called me. He set up an
25 appointment to come in for Tuesday.

M53BGIA4

Noblett - Direct

1 Q. Do you recall how long after your search the interview took
2 place approximately?

3 A. I know it was at least 10 days.

4 Q. Ms. Noblett, what kind of questions do you recall asking
5 him at that time during his interview?

6 A. Well, since he had horses at various tracks and training
7 farms and also his private farm, I asked him who's your vet.

8 He gave me the name of the vet for Parks Racetrack.
9 He gave me the name of the vet for Delaware Park. He said he
10 didn't know who his vet was at West Hampton farm. He would
11 have to ask his assistant, and Seth Fishman was his vet at his
12 private farm.

13 Q. Do you recall asking him any other questions?

14 A. I asked him where he purchased the items. He told me a
15 pharmacy. He couldn't remember the address. I asked him how
16 many times Dr. Fishman had been to his farm, and he said in the
17 middle of 2019 to treat a mare.

18 To me, you know, I asked him also who called in the
19 prescription for these items, who was the vet for the items
20 that were confiscated since there was no label or anything on
21 it. He said, he didn't know. He said, I don't know who wrote
22 the prescription, but I'll find out.

23 Q. Did you ask him if he had a veterinarian license?

24 A. I did ask him if he had a veterinarian license and he
25 answered no.

M53BGIA4

Noblett - Direct

1 Q. The questions that you asked him with respect to who his
2 vet was, which vet had issued the prescription, those kinds of
3 questions, why did you ask him those questions?

4 A. One, to see if there was a patient-client relationship, and
5 just, I was curious because he had horses at so many different
6 places. I was curious who the vets were at the different
7 locations.

8 Q. Why did you ask him how recently Dr. Fishman had seen his
9 horses?

10 A. I, in reviewing the information that was on the shipping
11 label, I looked up Dr. Fishman and he was a Florida vet and
12 Equestology was a company that sold drugs through a website,
13 drugs for camels, drugs for horses, and I thought it was just
14 odd that Seth Fishman was one of his vets.

15 So I wanted to see where between -- I remember he
16 spent a lot of time in Florida, and I thought, well, if you
17 have a Florida vet, it didn't make sense to me.

18 Q. Ms. Noblett, during your investigation, did you speak with
19 Seth Fishman?

20 A. Did I speak with him?

21 Q. Yes.

22 A. No, I did not.

23 Q. Have you ever spoken with Seth Fishman?

24 A. No.

25 Q. During your investigation, did you speak with somebody

M53BGIA4

Noblett - Direct

1 named Lisa Ranger or Lisa Giannelli?

2 A. No.

3 Q. Have you ever spoken to that individual?

4 A. No.

5 MR. GIANFORTI: Ms. Jung, can you pull up 403B which
6 is in evidence.

7 For the record, this is a text message exchange
8 between Lisa Giannelli and Seth Fishman, and I'm going to read
9 an excerpt of it into the record.

10 Ms. Jung, can you please go to the page of line 27 on
11 it. If you can blow up from line 17 to 27 that would be great.

12 This first text message starting at the bottom. This
13 is in reverse chronological order.

14 This first text message was sent to Seth on February
15 16, 2020 at 11:06 p.m. by Lisa Ranger and it reads:

16 "Are you back home. A client had an issue. Do you
17 want them to call you or can you call me?"

18 Seth then replied. "Client can call me."

19 Then Ms. Giannelli replied: "OK. And then she said,
20 Sylvio Martin."

21 And then the following text is to Seth from February
22 24, 2020. It reads:

23 "Just sent over email. PA investigator wants to speak
24 to you about Sylvio Martin. I sent you the invoice and phone
25 number."

M53BGIA4

Noblett - Direct

1 Seth then replied: "OK."

2 The next text message is a little bit later on
3 February 24, 2020 to Seth again. It reads: "I believe he's
4 calling you now."

5 Seth responds: "OK. Please text -- and appears to me
6 with a typo -- Sylvio's number again."

7 And then Ms. Giannelli sent a text message to Seth
8 reading: "Sylvio Martin."

9 Seth replies: "Yes."

10 And Ms. Giannelli sends a phone number to Seth.

11 And you can take that down.

12 Ms. Jung, could you now please pull up Government
13 Exhibit 4030 as in Oscar, which is in evidence.

14 For the record, this is a text message exchange
15 between Lisa Giannelli and somebody that's listed as Padilla
16 Sylvio Martin, and the exchange I'm going to focus on is from
17 February 16, 2020.

18 If you could start at line 25, Ms. Jung, which I think
19 is on the next page, and I'll again read this into the record.

20 So the first text message is from Padilla Sylvia
21 Martin to Ms. Giannelli and it reads: This is February 2,
22 2020.

23 It reads: "Hey, Lisa, is it too late to pick up an
24 order today?"

25 And the response from Ms. Giannelli is: "I'm not

M53BGIA4

Noblett - Cross

1 there, but I can see if the kids are. What do you need?"

2 And if you could blow up to line 18.

3 Padilla Sylvio Martin responds: "One box needles, 19,
4 one inch; one box syringes, 12CC, one bottle Banamine, one Dex,
5 two Bute. Thanks just let me know when I can get it. Thanks
6 again."

7 Ms. Giannelli responds: "Do you want monoject or
8 nipro syringes?"

9 Padilla Sylvia Martin respond: "Whatever I always
10 get,"

11 Ms. Giannelli responds: "OK."

12 She then sends another message that says: "He is
13 putting it out there now. Thank you."

14 Padilla Sylvio Martin responds: "Awesome, thanks."

15 BY MR. GIANFORTI:

16 Q. Ms. Noblett, beyond what we've discussed today, did you
17 have any further involvement in this investigation?

18 A. No.

19 MR. GIANFORTI: No further questions.

20 THE COURT: Mr. Fasulo.

21 CROSS-EXAMINATION

22 BY MR. FASULO:

23 Q. Good afternoon, Ms. Noblett.

24 A. Hi.

25 Q. Ms. Noblett, during the time you were investigating this

M53BGIA4

Noblett - Cross

1 matter, you were in your position with the Pennsylvania Racing
2 Commission, correct?

3 A. Yes.

4 Q. You said you looked at -- you asked Sylvio about his vets,
5 right?

6 A. I can't hear you.

7 Q. You said that you had asked Sylvio about the vets that he
8 had on his horses, correct?

9 A. Yes.

10 Q. And he responded to you, correct?

11 A. Yes.

12 Q. Do you indicate who were his vets at the various locations?

13 A. I remember Parks -- I got to think of his name. It was so
14 long ago. I think it was Dr. Clager (ph) and his associate. I
15 know Delaware Park was Amy Warren.

16 Like I said, he didn't know the vet's name at the
17 farm, and Dr. Seth Fishman at his private farm.

18 Q. When you're a vet at a private farm, does that come under
19 your authority?

20 A. At a private farm?

21 Q. He said he was his vet at a private, farm, correct, that's
22 what he told you?

23 A. That was his home. I'm assuming it was his home. It was
24 the farm.

25 Q. Right. And does that come under your authority at the

M53BGIA4

NobleTT - Cross

1 racing commission in Pennsylvania?

2 A. Not in Pennsylvania.

3 Q. In fact, did you ever have a chance to check and see
4 whether Seth Fishman was a licensed vet in the state of
5 Pennsylvania?

6 A. I did.

7 Q. Was Seth Fishman a license vet in the state of
8 Pennsylvania?

9 A. His license had expired and he didn't renew it.

10 Q. When did you know that his -- when was it that his license
11 expired?

12 A. I don't recall that.

13 Q. Do you recall in relation to the dates in question here,
14 did you know whether his license was current at those times?

15 A. In 2020 it was not current.

16 Q. Were you made aware that that license had ever been renewed
17 in Pennsylvania after the date?

18 A. I believe it wasn't.

19 Q. Now, you also testified earlier about -- if I can have the
20 items 900E I think it is. I'm sorry, 403B.

21 Ms. NobleTT, these were text messages that were read
22 while you were sitting on the witness stand?

23 A. Correct.

24 Q. Did you have these during the course of your investigation?

25 A. No, I did not.

M53BGIA4

Noblett - Cross

1 Q. These had nothing to do with your investigation, fair to
2 say?

3 A. No, I did not.

4 MR. FASULO: If I can have 1500, 1503, 1509.

5 Q. This is something that -- what is this when you're looking
6 at it now which is labeled 15003?

7 A. It's what was found behind the driver seat.

8 Q. And on what day did you find this?

9 A. It was a Monday and I believe it was 2/3.

10 Q. Excuse me?

11 A. I believe it was 2/3/2020.

12 MR. FASULO: Can I go to 15005.

13 Q. You remember testifying about this?

14 A. Yes.

15 Q. You said that this did not have any other information on it
16 other than what we see here, correct?

17 A. It had a label on it, but no prescription label.

18 Q. What kind of label was on it?

19 A. It had the information Equestology and not to use within 24
20 hours of race time.

21 Q. And where was that?

22 Was that on the back of this item?

23 A. I can't remember exactly where it was. There were pictures
24 taken of all parts of it.

25 MR. FASULO: If I may have one moment.

M53BGIA4

Noblett - Cross

1 THE COURT: Yes.

2 BY MR. FASULO:

3 Q. Can I approach and grab the hard copy from you?

4 A. Yes.

5 Q. Can we go to -- on the same 15005, is this the back that
6 you were speaking about of the same medication, if you know?

7 A. I don't know what it says on the front of it, so this is --
8 I can't tell you if it's the back of that bottle.

9 MR. FASULO: I ask the government to stipulate that
10 15003, the three pictures, these three pictures are pictures of
11 the same bottle, different angles of the same item.

12 THE COURT: You need to say it into the record.

13 MR. FASULO: I'd like the government to stipulate that
14 the exhibit noted as 15005 which has three photographs of it,
15 are actually different angles of the same item.

16 MR. GIANFORTI: Agreed.

17 THE COURT: All right. The government so stipulates
18 with the defendant, so you now have in evidence that these are
19 three photos of the same bottle from different angles.

20 BY MR. FASULO:

21 Q. I'd ask you to look at this photograph. Can you tell me
22 what is on this photograph as it relates to the label?

23 A. The bar code, the product number and the directions for
24 use.

25 Q. And also has the manufacturer, correct?

M53BGIA4

Noblett - Cross

1 A. Yes.

2 Q. And I'd like to now turn to the third page of this set of
3 documents labeled 15005.

4 Is this the other label that you were speaking about
5 in terms of warning, correct?

6 A. Yes.

7 MR. FASULO: Now I'd like to turn your attention to
8 15006. Again, I'd like a stipulation from the government that
9 there are four photographs attached to Government Exhibit 15006
10 and they all relate to the same item just at different angles.

11 MR. GIANFORTI: Agreed.

12 THE COURT: All right. So 15006 is a series of four
13 photographs of the same bottle from different angles.

14 BY MR. FASULO:

15 Q. Is this an item that you recovered the day that you did the
16 search of the vehicle?

17 A. Yes.

18 Q. And it was Butaject, that's what its name is?

19 A. Phenylbutazone, yes.

20 Q. And in this second page, this label indicated what it was
21 to be used for, correct?

22 A. Yes.

23 Q. It indicates the dosage that was to be used, correct?

24 A. Yes.

25 Q. And it also, if we can go to the next page, it also

M53BGIA4

Noblett - Cross

1 indicated -- if we can show -- and it also indicated when it
2 could or could not be used, correct?

3 A. Correct.

4 Q. And if we go to the next page, the next pages are exactly
5 the same. I'll like to move on to 15007 now.

6 MR. FASULO: Again, your Honor, 15007 are three
7 photographs. I'd like the government to stipulate that they are
8 three photographs of the same item as they introduced as 15007
9 showing the same photograph.

10 MR. GIANFORTI: Agreed.

11 THE COURT: The government has agreed with the
12 defendant that Exhibit 15007 is a series of three photographs
13 of the same item.

14 BY MR. FASULO:

15 Q. This is another thing that you recovered that day?

16 A. Yes.

17 Q. And it's Banamine, correct?

18 A. Correct.

19 Q. And, again, it has certain warnings on it, if we turn to
20 the next page, correct?

21 A. Yes.

22 Q. And it says, do not use within 24 hours of racing, correct?

23 A. Right.

24 Q. Now, I like to go to 15008.

25 Monoject, you see that? You see 15008?

M53BGIA4

Noblett - Cross

1 A. Yes.

2 Q. Do you recognize it?

3 A. Yes.

4 Q. And you stated earlier this something else you recovered
5 from that box, correct?

6 A. Correct.

7 MR. FASULO: And again if the government will agree
8 that the three photographs are the same item from different
9 angles.

10 MR. GIANFORTI: Agreed.

11 MR. FASULO: Pictures of the same item from different
12 angles.

13 THE COURT: So there is stipulation between the
14 parties that 15008 is a series of three photographs of one item
15 from three different angles and that is evidence.

16 BY MR. FASULO:

17 Q. During your time with the racing commission, you stated
18 that you would investigate a number of different drugs in
19 different situations regarding drug use at tracks, correct?

20 A. Regarding what?

21 Q. Drugs used at the different racetracks, correct?

22 A. At the different racetracks?

23 Q. No?

24 A. I don't understand what you're asking me.

25 Q. You stated earlier that you did investigations, right?

M53BGIA4

Noblett - Cross

1 A. Correct.

2 Q. And you investigated racehorses, correct?

3 A. Correct.

4 Q. And you investigated the drugs that were used on racehorses
5 at times, correct?

6 A. The only thing I investigated was what was on the daily
7 treatment sheets, and also if we got a positive on a sample, I
8 did the barn search, looked for evidence regarding that sample,
9 and that was all the involvement I had.

10 Q. Well, you also said that you did random searches, right?

11 A. Correct.

12 Q. And those random searches would be of -- what would those
13 random searches be of?

14 A. Anything on the racetrack, could be the jockeys room, could
15 be -- anything. But when there were random searches, they were
16 usually of the barns and the vehicles.

17 Q. And those random searches, some of them were just random,
18 like this one, you just stop the car and search the vehicle,
19 right?

20 A. Correct.

21 Q. And at that time you were searching for whatever items were
22 in that vehicle?

23 A. Right.

24 Q. And to conform whether or not they were appropriate or not
25 appropriate to be on the track?

M53BGIA4

Noblett - Cross

1 A. Correct.

2 Q. Right?

3 A. Right.

4 Q. And some of the things I think you talked about looking for
5 during your direct examination was, you were looking for
6 different -- the drugs that were being present at the track?

7 A. Any contraband.

8 Q. Right. So you also saw -- recovered these standard
9 hypodermic needles from the vehicle that day?

10 A. Correct.

11 Q. And you would agree with me if you go to page 2, if we may
12 show the other side. This is 15008, if we can highlight that.

13 In your experience in your role, what did you
14 understand this part of the label on this product to be?

15 A. It looks like it's instructions on how to use it.

16 Q. And do you see the word "caution" as well?

17 A. Yes.

18 Q. And on the back of it, what do you understand this to be as
19 it relates to this product?

20 A. When we photograph things like -- anything we confiscated,
21 we were to take, not only the picture itself, but we were also
22 supposed to photograph the lot number and other related
23 information on the item, expiration date, whatever.

24 Q. And this was on the item at the time that you recovered it,
25 correct?

M53BGIA4

Noblett - Cross

1 A. Yes.

2 Q. The lot number, the reference number, the expiration date,
3 correct?

4 A. Yes.

5 Q. And some sort of code that identifies the item, correct?

6 A. Yes.

7 MR. FASULO: And lastly, finally 15009.

8 Again, Judge, I ask 15009 are four photographs of the
9 same item taken from different angles.

10 MR. GIANFORTI: Agreed.

11 THE COURT: All right. The government has just
12 stipulated with the defendant that this exhibit is a series of
13 four photographs of the same item from four different
14 perspectives or angles. That stipulation is evidence in this
15 case.

16 BY MR. FASULO:

17 Q. On the front of this where you're looking at now which is
18 15009, can you tell me what you understood this product to be?

19 A. They're disposal syringes.

20 Q. When it says without needles, what significance is that?

21 A. That is just the syringe itself.

22 Q. And what use in your experience, if you know, what use
23 would a syringe like this be used for without a needle?

24 A. Syringe like this couldn't really be used for anything or
25 shouldn't I should say without a needle.

M53BGIA4

Noblett - Cross

1 Q. In your experience, have you recovered these syringes
2 before?

3 A. Not these type of syringes.

4 Q. Now I'd like you to turn to the second page, and now I'd
5 like to turn to the third page.

6 You see on this page there's a certain lot number,
7 correct?

8 A. Yes.

9 Q. Certain expiration, correct?

10 A. Correct.

11 Q. And certain order number, right?

12 A. And what?

13 Q. And the order number, correct, right there, reorder?

14 A. A reorder number, yes.

15 MR. FASULO: Can we turn to the last page.

16 Q. You see the last page with certain precautions, correct?

17 A. Yes.

18 Q. Now, is it your testimony here today that a licensed vet
19 would not be able to use this product?

20 A. A licensed vet?

21 Q. That's what I'm asking.

22 A. Yes, they would be able to use this product.

23 Q. So there's nothing wrong with a licensed vet using this
24 product?

25 A. No.

M53BGIA4

NobleTT - Redirect

1 MR. FASULO: Nothing further for this witness.

2 Thank you very much.

3 THE COURT: Any redirect?

4 MR. GIANFORTI: Yes, your Honor.

5 Thank you.

6 REDIRECT EXAMINATION

7 BY MR. GIANFORTI:

8 Q. Ms. NobleTT, do you recall Mr. Fasulo asking you about a
9 sticker that you found on the bottles in the truck that said,
10 Don't use within 24 hours of racing"or something like that?

11 A. Yes.

12 Q. When you saw those stickers, what, if any, impact did that
13 sticker have on your decision to seize those drugs as
14 contraband?

15 A. It was not a prescription label. It was just instructions.

16 Q. Did you still consider the drugs contraband even though
17 they had that sticker?

18 A. Yes.

19 Q. Hypothetically, if you learned that a trainer had ignored
20 that sticker and used those drugs within 24 hours of a race,
21 would they have avoided penalties because of that sticker?

22 MR. FASULO: Objection.

23 THE COURT: Sustained. She's not here as an expert
24 witness. You can ask her fact questions.

25 MR. GIANFORTI: Ms. Jung, could you please pull up

M53BGIA4

NobleTT - Redirect

1 Government Exhibit 15009 again, and turn to the fourth page.

2 Q. Ms. NobleTT, do you remember answering questions about this
3 box of syringes a moment ago?

4 A. Yes.

5 Q. Do you see where it says "caution" in the middle of the
6 page?

7 A. Yes.

8 Q. Could you read what it says under cautions?

9 A. "Discard after single use. Do not store at high
10 temperature and humidity. By prescription only."

11 MR. GIANFORTI: No further questions.

12 THE COURT: Thank you.

13 Any recross?

14 MR. FASULO: No, recross.

15 THE COURT: Thank you very much, Ms. NobleTT, you are
16 excused with the thanks of the Court. Put your mask on and you
17 may leave the courtroom.

18 Why don't we take a two minute pause for the witness
19 to leave and the court reporter to change out.

20 (Continued on next page)

21

22

23

24

25

M53BGIA4

Noblett - Redirect

1 THE COURT: Go ahead, Mr. Gianforti.

2 MR. GIANFORTI: I'd like to read a stipulation into
3 the record at this time.

4 THE COURT: All right.

5 MR. GIANFORTI: I will once again skip the preamble.
6 Government Exhibit 9010, which I have shown to Mr. Fasulo.

7 THE COURT: You may proceed.

8 MR. GIANFORTI: If called to testify at trial, a
9 representative of Dropbox Inc., Dropbox, would testify as
10 follows:

11 Government Exhibits 2001-A through 2056-F listed under
12 column A and the chart appended to this the stipulation are
13 true and correct copies of certain records and associated data
14 with a Dropbox account associated with the user name
15 Seth@Equestology.com, the Equestology Dropbox account
16 maintained by Dropbox.

17 The file names listed under column B appended to the
18 stipulation are true and correct reflections of the original
19 file names of each exhibit as maintained on Equestology Dropbox
20 account.

21 The folder structure listed under column C in the
22 chart appended to the stipulation are true and correct
23 reflections of the original stored location of each government
24 exhibit as maintained by the Equestology Dropbox account.

25 It is further stipulated and agreed by and between the

M53BGIA4

Noblett - Redirect

1 parties that the aforementioned Government Exhibits and this
2 stipulation, which is government exhibit 9010, may be received
3 in evidence as trial. And then there is a -- the table that I
4 mentioned, which runs for many pages, and I will not read into
5 the record.

6 And your Honor, the government offers Government
7 Exhibit 9010 and the exhibits listed therein.

8 THE COURT: All right. And are the tables part of
9 the --

10 MR. GIANFORTI: They are. They describe the different
11 exhibits -- the different files.

12 THE COURT: My question is: Are they part of what
13 you're moving into evidence?

14 MR. GIANFORTI: Yes.

15 THE COURT: So the stipulation 9010 and exhibits
16 2001-A through 2056-F are admitted into evidence as are the
17 charts that are attached to the body of the stipulation itself.
18 Those are all in evidence and are evidence that you may
19 consider in this case.

20 (Government's Exhibits 9010, 2001-A through 2056-F
21 received in evidence)

22 MR. GIANFORTI: Thank you, your Honor.

23 At this time, your Honor, the government calls
24 Dr. Cindy Cole.

25 THE COURT: All right. Dr. Cole.

M536GIA5

Cole - Direct

1 (Pause)

2 THE COURT: Good afternoon, Dr. Cole. If you could
3 please stand on the witness stand, remove your mask,
4 Ms. Dempsey will administer the oath.

5 CYNTHIA COLE,

6 called as a witness by the Government,
7 having been duly sworn, testified as follows:

8 DEPUTY CLERK: Thank you. Please state and spell your
9 name for the record.

10 THE WITNESS: Cynthia Cole, C-Y-N-T-H-I-A, C-O-L-E.

11 DIRECT EXAMINATION

12 BY MS. MORTAZAVI:

13 Q. Good afternoon, Dr. Cole.

14 A. Good afternoon.

15 Q. I'm going to ask you to pull the microphone closer to your
16 mouth, or you may want to move your chair.

17 A. How is that?

18 THE COURT: I think you're just fine.

19 MS. MORTAZAVI: Great. Thank you.

20 THE COURT: Please, Ms. Mortazavi.

21 Q. Dr. Cole, can you tell us what's your profession?

22 A. I'm a veterinarian pharmacologist.

23 Q. Where are you employed?

24 A. At the University of Florida.

25 Q. And, specifically, what division or subset of the

M536GIA5

Cole - Direct

1 University of Florida are you employed in?

2 A. I'm an associate clinical professor and director of the
3 racing laboratory in the department of pathology in the college
4 of medicine.

5 Q. And how long have you held that position?

6 A. Currently, I've held it for about three and a half years.

7 Q. Was there a time period before that where you held a
8 similar position?

9 A. From 2003 to 2006, I was also director of the racing
10 laboratory.

11 Q. Can you describe your duties as director of the racing
12 laboratory?

13 A. I oversee the analytical chemistry program with the lab.
14 The laboratory is designed to assay samples that are collected
15 from racehorses in the state of Florida, and we're looking for
16 drugs and medications and potentially performance altering
17 substances.

18 Q. What's your educational background?

19 A. I have, in addition to a bachelor's degree from the
20 University of Florida, I have a doctor of veterinary medical
21 degree, a DVM, and a PhD in cardiovascular pharmacology. I
22 also completed a post doctoral fellowship in molecular
23 pharmacology and an internship in equine clinical
24 pharmacology -- and internship in equine medicine and surgery.

25 Q. Do you today hold any licenses from any regulatory bodies?

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Cole - Direct

1 A. I'm licensed to practice veterinary medicine in the state
2 of Florida.

3 Q. And in addition to those degrees, do you have any other
4 types of professional credentials?

5 A. I am a specialist boarded by the American College of
6 Veterinary Clinical Pharmacology.

7 Q. Do you lecture in the field of clinical pharmacology?

8 A. Yes, I do.

9 Q. Are you a member of in any professional organizations in
10 your field, apart from the ones you mentioned?

11 A. I am a member of the American Academy of Veterinary
12 Pharmacology and Therapeutics, I am a member of the Scientific
13 Advisory Board for the American Racing Commissioners
14 International, and for the Racing Medication and Testing
15 Consortium, and I am a member of the American Association of
16 Equine Practitioners.

17 Q. Have you published any articles in your field?

18 A. I have approximately -- just less than 40 peer-reviewed
19 publications, most of them dealing equine pharmacology,
20 pharmacokinetics and pharmacodynamics specifically.

21 Q. What about any chapters or books?

22 A. I have approximately 10 chapters and have edited -- lead
23 author on a book called Equine Clinical Pharmacology.

24 Q. Have you overseen clinical studies in the field of equine
25 pharmacology?

M536GIA5

Cole - Direct

1 A. Yes. Most of my publications have dealt with reviewing the
2 effects or the time course of drugs, medications, and
3 substances in horses.

4 Q. Can you describe in general terms the categories of
5 substances that have been the subject of your studies?

6 A. It's a very wide range from therapeutic substances such as
7 local anesthetics, nonsteroidal anti-inflammatory drugs, which
8 are analgesics, to drugs such as cocaine and morphine and
9 fentanyl, which, in some cases, may have therapeutic benefits,
10 but in others, we are more concerned with performance altering
11 effects.

12 Q. And with respect to the substances that you have examined
13 in your field, does that include performance enhancing drugs?

14 A. Yes, it does.

15 Q. And what, if any, work have you conducted regarding the
16 ability of drug testing laboratories to detect the presence of
17 drugs in horses?

18 A. So a member -- as part of the Racing Medication and Testing
19 Consortium, it's a constant program that we have of testing
20 blind samples as well as coordinating with developing new
21 programs in order to detect new substances, and to assure that
22 all the laboratories are consistently detecting drugs of known
23 abuse.

24 Q. Have you previously testified as an expert in the field of
25 veterinary medicine and pharmacology?

M536GIA5

Cole - Direct

1 A. Yes, I have.

2 Q. And in preparation for your testimony today, have you
3 reviewed certain materials that the prosecutors in this case
4 provided you?

5 A. Yes, I have.

6 MS. MORTAZAVI: Your Honor, the government offers
7 Dr. Cole as an expert in veterinary equine medicine and
8 veterinary equine pharmacology.

9 THE COURT: No objection.

10 MR. FASULO: No objection.

11 THE COURT: The doctor will be qualified as an expert
12 in those disciplines.

13 MS. MORTAZAVI: Ms. Jung, can you please display
14 Government Exhibit 711, which, for the record, was a document
15 retrieved from a computer seized from Lisa Giannelli's
16 residence.

17 BY MS. MORTAZAVI:

18 Q. Dr. Cole, have you seen this particular document before?

19 A. I have, yes.

20 Q. Have you had a chance to review the entirety of this
21 document before today?

22 A. I have, yes.

23 Q. And have you reviewed certain terms and phrases contained
24 throughout there document?

25 A. Yes.

M536GIA5

Cole - Direct

1 Q. Were you familiar with some of the terms used in this
2 document on the basis of your experience?

3 A. Yes.

4 Q. Were there various drugs referenced throughout this
5 document whose instructions dictated that they be administered
6 within hours of a race or event?

7 A. Yes, there were.

8 Q. What's the most strenuous event a racehorse will typically
9 experience?

10 A. The race itself.

11 Q. It would not be training?

12 A. No. Not in my opinion.

13 Q. Why not?

14 A. Because the race is the episode that when the horse is
15 asked to give 110 percent in an effort to try to win the race.

16 During training, the horse generally will go for a
17 shorter distance. It may go at racing speeds, but it generally
18 isn't asked to typically go as long as a horse would go in the
19 race. And, generally, it's only racing -- it only exercises by
20 itself, maybe with one or two other horses, as opposed to the
21 race where there may be a full field of anywhere from 8 to 12
22 horses.

23 Q. Have you worked with the Florida Pari-mutuel Wagering Board
24 through your work at the laboratory?

25 A. Yes, I have.

M536GIA5

Cole - Direct

1 Q. Through that, have you become familiar with the types of
2 drugs that are restricted or banned in the state of Florida?

3 A. Yes, I am.

4 Q. And through that, have you also become familiar with
5 certain conduct related to the administration of drugs that is
6 restricted or banned?

7 A. Yes.

8 Q. Are trainers permitted to administer drugs to horses the
9 day of a race?

10 A. No, there are not.

11 Q. Are you aware of any state where that is permitted?

12 A. I'm not aware of any state that permits that
13 administration.

14 MS. MORTAZAVI: Ms. Jung, can you please display
15 Government Exhibit 139A and it's corresponding transcript,
16 Government Exhibit 139AT? And the jurors are welcome to follow
17 on their screens or in their binders.

18 For the record, this is a June 4th, 2019, intercepted
19 call between Seth Fishman and Lisa Giannelli. If you could
20 please play.

21 (Audio played)

22 Q. Dr. Cole, you testified --

23 MS. MORTAZAVI: And we can take this exhibit down,
24 thank you.

25 Q. Dr. Cole, you testified that you work on refining drug

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Cole - Direct

1 tests for performance enhancing drugs; is that correct?

2 A. That's correct.

3 Q. Are trainers permitted to administer drugs to racehorses
4 that have not been approved by the FDA?

5 A. No.

6 MR. FASULO: Objection as to form -- overruled.

7 THE COURT: Overruled.

8 MR. FASULO: Withdrawn.

9 Q. Are you familiar through the course of your work with
10 something called the ARCI?

11 A. Yes, I am.

12 Q. What is that?

13 A. It's the Association Of racing Commissioners International.

14 Q. What does that body do?

15 A. It is a group of generally regulatory authorities that
16 are -- have worked to try to standardize and -- classification
17 system for drugs and medications based on the likelihood that
18 they would be -- are therapeutics in the horse or the
19 likelihood they might alter the outcome of the race and have no
20 therapeutic value. And they have also developed a set of
21 standards and practices, not only around just drugs and
22 medications, but how racing and betting and wagering should be
23 conducted in the United States and internationally.

24 Q. And these guidelines that you referenced, they are not
25 state law; are they?

M536GIA5

Cole - Direct

1 A. In Florida, in 2015, the 2014 regulations from ARCI for
2 their drug classifications for adopted into state statute.

3 Q. So in the state of Florida, the ARCI guidelines have been
4 incorporated into state law?

5 A. That is correct.

6 Q. And based on your experience, have you come to learn
7 whether trainers are permitted to administer prescription drugs
8 to horses if they have no valid prescription?

9 A. They are not permitted.

10 MS. MORTAZAVI: Ms. Jung, if we could please display
11 Government Exhibit 711?

12 Q. Dr. Cole, I'd like to walk through this document, which
13 once again, was a record retrieved from a computer seized from
14 the residence of Lisa Giannelli.

15 Looking at the very first item here, HP bleeder plus,
16 under the title new products, you've reviewed the entirety of
17 this description, correct, Dr. Cole?

18 A. Correct.

19 Q. I'm just going to be reading portions of it into the
20 record.

21 HP bleeder plus, a combination of a proven and
22 test-free bleeding. Pressure within pulmonary vasculature
23 increases nearly three- to fourfold during racing. HP bleeder
24 plus contains the strongest test-free vasodilators available on
25 the market. Vasodilation is a benefit to all athletes.

M536GIA5

Cole - Direct

1 And at the bottom of this description: Typically used
2 four to six hours prior to strenuous exercise.

3 Dr. Cole, I'd like to ask you but a few of the terms
4 that appear in this description.

5 Are you familiar with the term "bleeding"?

6 A. I am.

7 Q. What is that?

8 A. Racehorses -- when we refer to a horse as bleeding or
9 having bled, we're referring to it developing exercise-induced
10 pulmonary hemorrhage. Horses, when they exercise at a very
11 high level intensity, will rupture some of the small blood
12 vessels in their lungs. It can be very mild and clinically
13 non-apparent to a veterinarian unless they endoscope the horse,
14 so actually put a scope down into the lower portion of the
15 lungs. Or it could be very severe, in which case blood may
16 actually be apparent at the nose of the horse.

17 Q. Does exercise-induced pulmonary hemorrhaging affect the
18 performance of a racehorse?

19 A. Certainly, if it's mild to severe. We -- definitely
20 interferes with the horse's ability to race and to run or
21 exercise intensely. If it's mild, it's unclear, and I think it
22 is variable depending upon the horse and his response to the
23 level of severity that it's developing.

24 Q. Are you familiar with the term "bleeder" in this context?

25 A. Yes. We would refer to a horse that's suffering from EIPH

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Cole - Direct

1 as a bleeder.

2 Q. Are all horses bleeders?

3 A. That's a bit hard to answer. Most racehorses, if not all,
4 if they intensely exercise and really race hard, will have some
5 level of bleeding. Other horses that are used for only
6 pleasure may never exercise to the extent that they will bleed.

7 Q. What is an analgesic?

8 A. An analgesic is a pain reliever.

9 Q. Does the administration of analgesics help in the treatment
10 of EIPH?

11 A. I'm unaware of any scientific evidence that supports an
12 analgesic would decrease the severity or incidence of EIPH.

13 Q. What effect can the use of analgesics have in improving the
14 performance of a racehorse?

15 A. If a horse has an injury and is administered an analgesic,
16 he'll no longer feel the pain of that injury, or he'll feel it
17 less. And so the horse's competition or level of competition
18 will be less if it was experiencing that pain and would compete
19 better if it was no longer painful.

20 Q. Are you familiar with the term vasodilator or vasodilation?

21 A. Yes, I am.

22 Q. What do those refer to?

23 A. So one could think of our blood vessels as garden hoses or
24 tubes that are connected to a pump, which is the heart. And
25 vasodilating agents will cause those tubes to dilate or to

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Cole - Direct

1 relax the muscle that's within those tubes. So they will lower
2 the blood pressure that those tubes are experiencing.

3 Q. And can that have a performance enhancing effect?

4 A. If a horse is suffering from EIPH, and we were able to
5 selectively decrease the pressure in the pulmonary vessels
6 which are being ruptured, it's possible that a horse would
7 improve performance based on the fact that he would bleed less.
8 If the vasodilation produced more of a systemic response, so
9 also lowered your systemic blood pressure, it's unlikely -- or
10 it would enhance the performance. The risk would be that it
11 actually would impair performance.

12 Q. Looking at the entirety of this description, is there
13 anything here indicating that this particular drug HP bleeder
14 plus, is intended to be used to enhance performance.

15 A. Well, I think when looking at the recommendations, it is
16 that the -- as it says, if the horse does not demonstrate
17 obviously pain or bleeding, there is -- the likely there is no
18 pain or bleeding is near zero. So the indication would be that
19 the horse would be improved by being administered this drug
20 either through an analgesic effect or through improving its
21 response to EIPH.

22 Q. And looking at the directions for use, it says here
23 typically used four to six hours prior to strenuous exercise.

24 Do you see that?

25 A. Yes.

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Cole - Direct

1 Q. Are therapeutic medications typically tracked based on the
2 timing of strenuous exercise?

3 A. There are certain medications that are administered prior
4 to strenuous exercise, but they are very limited in how they're
5 used.

6 Q. All right. Does that indicate anything to you about the
7 intended use of this drug?

8 A. No.

9 MS. MORTAZAVI: If we could turn to number 2 on this
10 itemized list, please, Ms. Jung?

11 Q. And you see at the very bottom of the first page bleeding
12 pills, Dr. Cole?

13 A. Yes.

14 MS. MORTAZAVI: And, Ms. Jung, if we could turn to the
15 second page, which contains the description of that item?

16 Q. And once again, Dr. Cole, I'm going to read out portions of
17 this description, with the understanding that you've reviewed
18 the entirety of it, correct?

19 A. Yes.

20 Q. All right. Bleeder pills increase vascular integrity and
21 help reduce inflammation. They have coagulant properties as
22 well. They have benefits far beyond bleeding. If you wanted
23 to make an analogy, they would be equivalent to giving a low
24 dose corticosteroid for prevention of bleeding.

25 HP bleeder plus is a strong, natural vasodilator and

M536GIA5

Cole - Direct

1 mild nature analgesic. Vasodilators are extremely beneficial
2 for many reasons beyond decreasing bleeding in horses.

3 Dr. Cole, can you explain to us what it means to
4 increase vascular integrity?

5 A. So this is -- would be referring to horses suffering from
6 EIPH, and as I indicated, we believe that it originates from
7 the rupture of the very small vascular vessels in the lungs.
8 And so by improving vascular integrity, in theory, you would be
9 lessening the chance that these small vessels would rupture.

10 Q. What does it mean for something to have coagulant
11 properties?

12 A. It means that it helps the blood clot.

13 Q. Are you familiar with the term corticosteroids?

14 A. I am.

15 Q. What are corticosteroids?

16 A. Corticosteroids are a very diverse class of drugs. They
17 are -- both occur naturally as well as are synthetically made.
18 What they share is a chemical structure of four rings that are
19 attached in a specific manner. And then modifications and
20 additions to those rings are made chemically in order to change
21 how the drugs act and their specific activities.

22 In equine veterinary medicine, corticosteroids are
23 most often used because of their major effects is
24 anti-inflammatory effects.

25 Q. In the context of racing, what to corticosteroids do?

M536GIA5

Cole - Direct

1 A. So we're back to it being an anti-inflammatory agent. And
2 if the horse has an injury that's associated with inflammation,
3 that might cause the horse pain or decreasing performance. The
4 corticosteroid would take away some of that pain and allow the
5 horse to compete at a more normal level.

6 Q. Is the use of corticosteroids on racehorses restricted?

7 A. Yes, it is.

8 MS. MORTAZAVI: Ms. Jung, if we could return to the
9 main image of Government Exhibit 711, still on page 2, and if
10 you could focus on the third item on the list, VO2 max?

11 Q. Dr. Cole, I'm going to read portions of this description
12 into the record.

13 VO2 max, HP bleeder plus with additional ingredients,
14 usually 10MLs four to five fops prior to race.

15 Vasodilation benefits all performance animals because
16 it reduces cardiac exertion during performance. Pharmaceutical
17 vasodilators are usually tested in most jurisdictions and
18 disciplines because they are proven to be effective sports
19 enhancing.

20 The formula is a proven oral preworkout designed for
21 Olympic athletes. Best results are when used within two hours
22 of exertion, and results have lasted up to six to eight hours.

23 Dr. Cole, as a general matter, are you familiar with
24 the term VO2 max?

25 A. Yes, I am.

M536GIA5

Cole - Direct

1 Q. What does that mean?

2 A. It means the maximum amount of oxygen that an individual
3 consumes when they are exercising to their utmost or maximal
4 capabilities.

5 Q. Does an increase in oxygen intake have any affect of the
6 performance of a racehorse?

7 A. Yes, it certainly could. The limitation for a horse racing
8 would be how intensely his or her muscles could work. And if
9 they are exercising at maximal exertion, how long could they
10 continue to exert that level of exercise.

11 That is mostly governed by the amount of oxygen they
12 can consume. That allows the muscles to continue to work and
13 be most efficient, producing very few byproducts, and
14 essentially continue to work very hard for a longer period of
15 time.

16 So anything that would improve their VO2 max would, in
17 theory, improve a horse's ability to race.

18 MS. MORTAZAVI: Ms. Jung, if we could take down this
19 exhibit for a moment and please display government exhibit 166A
20 and 166AT?

21 Q. We'll give our paralegals a moment, Dr. Cole.

22 MS. MORTAZAVI: Your Honor, if I could have a minute?

23 THE COURT: Sure. We're a minute or two away from the
24 break, so why don't we take the afternoon break, and you can
25 figure out what's going on with the AV. All the computers seem

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Cole - Direct

1 a little slow down.

2 We'll take our afternoon break now.

3 Dr. Cole, I'm going to remind you you remain under
4 oath. During the break, please don't talk about your testimony
5 with anyone during the break. And ladies and gentlemen of the
6 jury, please leave your notepads on your seat, and I remind you
7 again, please do not discuss the case until all of the evidence
8 is in and you retire to deliberate.

9 Thank you.

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M536GIA5

Cole - Direct

1 (Jury not present)

2 THE COURT: All right. Dr. Cole, you may put your
3 mask back on and step down, and I'll see everyone back in about
4 10 or 15 minutes.

5 MS. MORTAZAVI: Thank you, your Honor.

6 (Recess)

7 THE COURT: You can be seated.

8 MR. FASULO: I assume we should wait until the jury is
9 in before we call in our witness.

10 THE COURT: Yes.

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M536GIA5

Cole - Direct

1 (Jury present)

2 THE COURT: All right. Please be seated, everyone.

3 And would someone retrieve Dr. Cole?

4 (Pause)

5 THE COURT: Thank you, Dr. Cole. You can remove your
6 mask.

7 Ms. Mortazavi, please.

8 MS. MORTAZAVI: Thank you, your Honor.

9 If I could ask our paralegals to please display
10 Government Exhibit 711 and turn to page 2?

11 THE COURT: Gentlemen, please.

12 MS. MORTAZAVI: And if we could please focus on item
13 number 4 on this list after VO2 max. That's the homeogesic --
14 natural analgesic painkiller.

15 BY MS. MORTAZAVI:

16 Q. I'm once again going to be reading portions of this
17 description out loud, Dr. Cole.

18 The combination of the three most common preparatory
19 product in global racing combined in one product with the most
20 value and benefit.

21 MSM and DMG are well documented in the racing
22 industry. There are no published toxicities with the
23 recommended doses and should be considered with all performance
24 animals. The literature regarding the benefits for both MSM
25 and DMG, in the equine athlete is endless.

M536GIA5

Cole - Direct

1 Dr. Cole, you've testified previously that analgesics
2 can affect a horse's performance during a race, correct?

3 A. Yes, I have.

4 Q. That it might have the effect of masking a strain or an
5 injury; is that right?

6 A. Correct.

7 Q. Are you familiar with MSM?

8 A. Yes, I am.

9 Q. And DMG?

10 A. Yes, I am.

11 Q. What performance enhancing effect, if any, does MSM have?

12 A. So MSM is methylsulfonylmethane. And it is commonly used
13 as an anti-inflammatory agent.

14 Q. What about DMG?

15 A. It is an agent that has effects both as an antioxidant and
16 as a buffering agent.

17 Q. What's a buffering agent?

18 A. So when we spoke about exercising at maximal exertion and
19 the value of being able to provide adequate oxygen during
20 exercise, when those muscles are exercising, and they do not
21 have adequate levels of oxygen, they can still create energy,
22 but they must do it without the presence of oxygen or an
23 anaerobic capability. That type of metabolism results in the
24 production of much more side products such as lactic acid and
25 other acidic products. And, generally, it is felt that that

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Cole - Direct

1 acidic accumulation lowers the PH in the muscles, and that
2 contributes to fatigue and tiring in the muscles. And so a
3 buffering agent like DMG would be able to counteract some of
4 that aspect of the acidic acid.

5 Q. If I understand it correctly, lactic acid build-up can lead
6 to fatigue?

7 A. That's correct.

8 Q. And a buffering agent helps reduce the lactic acid; is that
9 right?

10 A. That's correct.

11 MS. MORTAZAVI: Ms. Jung, can we please look at
12 number 5 on Government Exhibit 711, which is PSDS, also
13 described as a natural analgesic painkiller.

14 Q. Once again, I'll be reading portions of this out loud and
15 asking you some questions, Dr. Cole.

16 This product is based on the original Panacin
17 formulation. This has 2.5 times more D-phenylalanine than all
18 other compounded and production versions.

19 Intense exercise always involves an anaerobic
20 component and thus results in significant reductions in ATP, an
21 increase in muscle lactic acid, and an increase in tissue
22 acidity.

23 MS. MORTAZAVI: Ms. Jung, if you could please turn to
24 the next page of this exhibit where the description of PSDS
25 continues.

M536GIA5

Cole - Direct

1 Thank you.

2 Q. With increasing acidity comes premature muscle fatigue with
3 an associated decrease in performance. The typical dose is
4 5MLs and the last dose is usually administered four to six
5 hours prior to strenuous exercise.

6 Dr. Cole, I read out loud a number of different terms
7 here. Are you familiar with D-phenylalanine?

8 A. I am.

9 Q. What is that?

10 A. It's a phenylalanine is an amino acid which is one of the
11 very basic building blocks for a number of different tissues,
12 including neurotransmitters and proteins.

13 Q. And we've already discussed previously the ways in which an
14 analgesic or a painkiller can improve a horse's race
15 performance, correct?

16 A. Correct.

17 Q. In this description with increased acidity -- with
18 increasing acidity comes premature muscle and fatigue with an
19 associated decrease in performance. Do you interpret that to
20 be the build-up of lactic acid we spoke of a minute ago?

21 A. Yes, I do.

22 MS. MORTAZAVI: All right. Ms. Jung, if we could take
23 this down and look at number 6 on Government Exhibit 711, which
24 is Equi-Mass PG-2 (muscle growth factor)

25 Human growth hormone is a highly controlled substance

M536GIA5

Cole - Direct

1 and has many permanent negative side effects, making it
2 dangerous to both purchase and use. Modified growth factor
3 specially targeted to muscle tissue are neither controlled nor
4 proven dangerous. It's a unique product and specific for
5 equine athletes. The product has been safely used in many
6 jurisdictions five days out, although we recommend seven days
7 for complete elimination. Usually a vial is administered IM or
8 IV every three to five days for a series of three to four
9 shots.

10 Dr. Cole, are you familiar with growth factors?

11 A. I am.

12 Q. What are those?

13 A. Growth factor is a very nonspecific term for any substance
14 or cytokine that's made in the body that would stimulate growth
15 and development or division of tissue or specific cells.

16 Q. And are you also familiar with human growth hormone?

17 A. Yes, I am.

18 Q. Is there any performance enhancing effect that could result
19 in giving human growth hormone to a horse?

20 A. I don't think it's clear how much of a cross-reactivity --
21 in other words, human growth hormone is actually a hormone that
22 is produced synthetically for use in humans. But there is a
23 great deal of similarity between the structure of equine growth
24 hormone and human growth hormone.

25 In athletes, it has a natural function. Obviously, in

M536GIA5

Cole - Direct

1 young, immature humans or horses, growth hormone is responsible
2 for the growth and development and maturation of, among other
3 things, the musculoskeletal system, so increasing muscle mass
4 and increasing bone formation.

5 So assuming there is a fair amount of cross-reactivity
6 between equine growth hormone and human, if this was
7 administered to a horse, especially a young and still-growing
8 horse, you'd expect to see increased muscle mass as well as
9 increased bone development.

10 Q. Could that improve a horse's race performance?

11 A. Yes. I think typically we associate larger horses with
12 having a longer stride, larger muscle being able to have,
13 again, increased performance. It's not definitive, but it is
14 certainly something that we think is an advantage for the
15 horses to be larger and more fully developed.

16 Q. And in this description, there's a reference to this
17 product having been safely used in many jurisdictions five days
18 out. Are you familiar with that phrase, X many days out?

19 A. Yes. It's typically used when one is referring to the
20 amount of days, weeks, or hours when you withdraw the drug in
21 order to avoid the detection of the drug by the testing
22 authorities.

23 Q. And how many days out from what event or circumstance?

24 A. Race is generally what we're concerned with. Most often,
25 most of the horses are tested post-race in the U.S., although

M536GIA5

Cole - Direct

1 there is some testing that's being done during other time
2 periods of training. But certainly, in all the jurisdictions
3 I'm aware of, post-race testing is very standard.

4 MS. MORTAZAVI: Ms. Jung, can we look at number 7 on
5 Government Exhibit 711, which is GNRH factrel, androgenic
6 hormone.

7 I'm going read out one portion of this description.
8 This product is best used for sulking horses. Typically half
9 to full bottle is used four to six hours prior to strenuous
10 exercise.

11 Q. Dr. Cole, are you familiar with the concept of GNRH?

12 A. I am.

13 Q. What is that?

14 A. It is an acronym for gonadotropin-releasing hormone.

15 Q. What does that do?

16 A. It's generally released by the hypothalamus, which is a
17 gland in the brain. It acts on the pituitary gland, and it
18 causes the release of two hormones, luteinizing hormone, or LH,
19 and follicle stimulating hormone, or FSH.

20 In young and intact male horses, that will cause the
21 production of testosterone. And in young fillies and mares, it
22 will cause a production of the maturation of follicles and
23 ovulation, and typically alter their endocrine cycle, so their
24 reproductive cycle.

25 Q. What effect does that have on a racing horse?

M536GIA5

Cole - Direct

1 A. Well, certainly, an intact male would cause a production of
2 more testosterone. So I think most of us are familiar with
3 testosterone increasing muscle mass and development, so this
4 would be above and beyond what the normal intact male horse
5 would produce.

6 In fillies and mares, the effect would more likely to
7 be simply altering their reproductive cycle. And so sulking
8 tends to be the term used when horses are not really excited
9 about their training, maybe not particularly aggressive in
10 their training, they may not be finishing up their feed, they
11 may be a little depressed. And so what you're trying to do
12 with these mares would be to circle their hormones in order to
13 get them in a better state physiologically and more interested
14 in training.

15 Q. Can that improve a horse's attitude during a race?

16 A. Yes. Absolutely.

17 MS. MORTAZAVI: Ms. Jung, can we please display
18 Government Exhibit 4028 and 4029, which were photographs taken
19 during a premises search of a location associated with
20 Seth Fishman in Florida?

21 For the record, these photographs are bottles of
22 something labeled GNRH.

23 Ms. Jung, can you please now display 1507 and then
24 1405?

25 For the record, 1507 is a photograph of a drug seized

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Cole - Direct

1 from the premises search of Mount Hope Training Center. And
2 Government Exhibit 1405 is a drug seized during a premises
3 search of the Golden Shoe Training Center.

4 And we can take these exhibits down. And if we could
5 please return to Government Exhibit 711, page 3.

6 And looking at the bottom of the page, ITTP plus
7 (increase oxygen release in blood). I'm going to be reading
8 out portions of this description.

9 Most people are using half bottle night before and
10 remainder of bottle four to five hours before event. And,
11 earlier, ITTP plus other ingredients.

12 Q. Dr. Cole, are you familiar with, in general, terms a
13 substance called ITTP plus?

14 A. ITTP, yes.

15 Q. What is that?

16 A. It generally refers to inositol triphosphate.

17 Q. Is that an approved drug?

18 A. It is not approved drug.

19 Q. What is it?

20 A. It's a chemical that has been studied primarily in
21 laboratory rodents. It is a drug that binds to hemoglobins.
22 So when we spoke earlier about the importance of oxygen being
23 delivered to the muscles in terms of maintaining exercise
24 performance, that oxygen is carried in the blood by the red
25 blood cells when it is bound to a compound called hemoglobin.

M536GIA5

Cole - Direct

1 What ITTP plus does, it alters the binding of oxygen
2 to the hemoglobin molecule and facilitates release of the
3 oxygen into the muscle. So in the mice that were treated with
4 this particular compound, they ran longer and produced higher
5 VO2 maxes than mice that were not treated with this compound.

6 (Continued on next page)

M53BGIA6

Cole - Direct

1 BY MS. MORTAZAVI:

2 Q. Has the use of this drug on horses been the subject of any
3 study as far as you know?

4 A. There is a study that was conducted in Hong Kong that was
5 primarily interested in being able to detect the presence of
6 the compound in samples collected from treated horses.

7 To my recollection, there was no studies looking at
8 the safety or efficacy of the compound in the horse.

9 Q. And in your experience, is it possible to safely conclude
10 that a drug will have the same effect on a rodent as on a
11 horse?

12 MR. FASULO: Objection as to form.

13 THE COURT: Overruled. The answer will stand. Did
14 you answer. You may answer.

15 MS. MORTAZAVI: Could you have the court reporter read
16 the question back, please.

17 (Record read)

18 A. No, it is not.

19 Q. Why not?

20 A. The metabolic enzymes, for one, in a mouse can be very
21 different in a horse. So the way the horse processes a
22 compound will be very different.

23 So a compound that is safe and effective in a horse at
24 a particular dose, may be very different from that which could
25 be used in any rodent species.

M53BGIA6

Cole - Direct

1 MS. MORTAZAVI: Ms. Jung, could we please return to
2 Government Exhibit 711 and turn to page 4, and specifically
3 item number 13 on that page which is at the very bottom.

4 Once again, Dr. Cole, I'll read portions of this out
5 loud and then ask you some questions.

6 "ACTH in small doses will act as natural
7 anti-inflammatory, larger doses 2CC or more will act as
8 sedation. With testing with corticosteroids there are not many
9 viable options left."

10 Ms. Jung, can we turn to the next page where this
11 description continues.

12 It has been recommended that in jurisdiction that test
13 cortisol levels only 250 IU's be sued. The typical dose is 250
14 IU's four to six hours prior to exercise."

15 Q. Dr. Cole, are you familiar with ACTH?

16 A. Yes, I am.

17 Q. What is that?

18 A. It is adrenocorticotrophic hormone.

19 Q. So is that a hormone?

20 A. It is a hormone. It is naturally produced by the pituitary
21 gland and it acts on the adrenal gland in the body to, among
22 other things, release cortisol which is an endogenously or
23 naturally produced corticosteroid.

24 Q. And what, if any, performance enhancing effect can that
25 have on a racehorse?

M53BGIA6

Cole - Direct

1 A. As we discussed, if a horse has an inflammatory-based
2 injury of some kind that is causing him pain, by taking away
3 that pain with this anti-inflammatory agent, you can allow the
4 horse to compete at a normal level of which he typically would
5 not with the presence of this injury.

6 Q. Is there a difference between reducing inflammation caused
7 by injury and healing injury?

8 A. Yes, there is.

9 Q. And what is that?

10 JUROR: Judge, we lost our monitors.

11 MS. MORTAZAVI: Your Honor, we may have a hard copy or
12 two of this exhibit. If the seating is uncomfortable, we can
13 hand that up.

14 JUROR: It came back up.

15 THE COURT: Why don't you just flag me if it goes out
16 again. We'll try to get it fixed before the morning.

17 Thank you.

18 BY MS. MORTAZAVI:

19 Q. Dr. Cole, I believe you were answering what the difference
20 is between reducing inflammation caused by injury and healing
21 the injury.

22 Could you continue.

23 A. I think the most important difference would be a timing.
24 So if, for example, you stepped off the curb in New York City
25 and sprained your ankle, it would be fine to administer an

M53BGIA6

Cole - Direct

1 anti-inflammatory agent.

2 Once the severity of that injury had been diagnosed,
3 the doctor may give you that anti-inflammatory, tell you to
4 stay off the limb for seven to ten days, whatever, in order to
5 help heal and limit further damage.

6 If, however, you did not get that damaged ankle
7 assessed and maybe it had a ligament or a tendon tear, the use
8 of an anti-inflammatory that allowed you to continue to walk
9 around on the ankle would really be contradicted because you
10 might do additional damage.

11 So the same drug can be used, it really is a timing or
12 understanding of what is causing that inflammation and pain in
13 whatever limb is affected.

14 MS. MORTAZAVI: Ms. Jung, could we return to
15 Government Exhibit 711, page 5, and look at item 14 on the
16 list, which is oxygenator, increased oxygen release in blood.

17 "ITPP upon initial studies was quite promising for the
18 equine athlete. Renowned Dr. Tobin who consults with all
19 jurisdictions had to synthesize a sample for Hong Kong for
20 testing purposes in 2012.

21 Oxygenator has a combination of a unique complex sugar
22 and MSM mixed by biochemist and not compounders. The suggested
23 use is 10 to 15 cc IV 24 hours out and another 10 to 15 cc four
24 hours prior to event."

25 BY MS. MORTAZAVI:

M53BGIA6

Cole - Direct

1 Q. Dr. Cole, you already testified about the performance
2 enhancing affect of increased oxygen in a racehorse, correct?

3 A. Correct.

4 Q. Let me ask you. There's a reference here to Hong Kong for
5 testing purposes.

6 In the context of your field, what do you understand
7 that to be a reference to?

8 A. Hong Kong is the laboratory that conducted the study on
9 ITPP in order to detect it. The Hong Kong laboratory is
10 probably one of the best drug testing programs in the world.

11 Q. Best drug testing programs for what kind of animal or
12 athlete?

13 A. For the horseracing.

14 MS. MORTAZAVI: Ms. Jung, if we could turn back to the
15 exhibit number 15 on the itemized list which is written here as
16 Heptamamo B12 mild blood builder, and I'll again read portions
17 of this.

18 "Facilities energy availability during exercise, and
19 provides a potent anti-catabolic effect to limit muscle damage
20 during exercise.

21 During exercise, large amounts of glutamine are lost
22 from muscle tissue. As the provider of glutamine, OAK has a
23 potent anti-catabolic effect, i.e., helps prevent tissue
24 breakdown, especially muscles."

25 BY MS. MORTAZAVI:

M53BGIA6

Cole - Direct

1 Q. Dr. Cole, have you heard of the term blood builder?

2 A. I have.

3 Q. What is that?

4 A. As we discussed, anything that generally increases the
5 number of red blood cells that are circulating in the body
6 would be considered a blood builder.

7 Q. And what performance enhancing effect can it have to
8 increase the red blood cell count in a racehorse?

9 A. Since the red blood cells are the primary source for
10 carrying oxygen to the muscles, increasing the number of red
11 blood cells is one of the mechanisms by which we try to improve
12 athletic performance.

13 Q. What are some examples of non-blood builder drugs that
14 you're aware of?

15 A. Probably the most commonly known one at this point is
16 called erythropoietin, or commonly referred to as epo.

17 Q. Are you familiar with the term Epogen?

18 A. That would be the trade name for erythropoietin.

19 Q. Are familiar with the Epogen?

20 A. Yes, I am.

21 Q. Is that approved for use on racehorses?

22 A. It is not.

23 Q. Have you heard of the term "EPO mimetic"?

24 A. Yes. Once Epo was developed, there had been at number of
25 similar hormones, and for modifications, and these are commonly

M53BGIA6

Cole - Direct

1 referred to as Epo mimetic, they have the same effect in that
2 they work on the level of the bone marrow to increase red blood
3 cell production.

4 Q. And from your work with the Florida Division of Pari-mutuel
5 Wagering, do you have an understanding of whether Epo may be
6 used on racehorses?

7 A. In the state of Florida, the administration of Epo or Epo
8 like drugs is a prohibited practice.

9 Q. Is that a prohibited practice on race day?

10 A. It is prohibited at any time for a horse that's under the
11 supervision of the Division of Pari-mutuel Wagering.

12 Q. Dr. Cole, you've reviewed the entirety of Exhibit 711 prior
13 to today, correct?

14 A. Yes.

15 Q. Was there a drug listed on here on the itemized list called
16 BB3?

17 A. Not that I recall.

18 MS. MORTAZAVI: Ms. Jung, could you please display
19 Government Exhibit 709, which is in evidence as a record
20 retrieved from a computer that was seized from Lisa Giannelli's
21 residence, and could you please turn to page 3 of that list.
22 Looking at the very bottom category, doc. I'm going to ask our
23 paralegal to highlight the line that has DBB3.

24 Q. Do you see a price listed next to BB3?

25 A. 250.

M53BGIA6

Cole - Direct

1 Q. Thank you.

2 MS. MORTAZAVI: Ms. Jung, could we please turn back to
3 Government Exhibit 711 and turn to page 5, please. I'd like to
4 look at number 16 on that itemized list which is EGH, increases
5 testosterone.

6 Once again, Dr. Cole, I read out portions of this.

7 DHEA is a prohormone that is predominantly used in
8 human athletes to increase testosterone levels. Using
9 testosterone by itself alters the ratios and much more easily
10 detected. Giving one shot a week has never caused levels to
11 test positive.

12 In some cases in HK people using two shots per week
13 for more than four weeks had pushed the upper limits of
14 testosterone limits."

15 Q. Dr. Cole, are you familiar with the term EGH?

16 A. I am.

17 Q. What is that?

18 A. It would appear to be an acronym for equine growth hormone.

19 Q. And you talked about human growth hormone, can you explain
20 what equine growth hormone is?

21 A. So that would be the equivalent hormone in the horse as is
22 indicated very similar in the peptide structure to human growth
23 hormone, but there are some subtle differences.

24 And its effect would be similar as previously
25 described increasing in muscle mass and bone formation.

M53BGIA6

Cole - Direct

1 Q. Are there any commercially available versions of EGH in the
2 United States as far as you know?

3 A. Not as far as I'm aware.

4 Q. Are you familiar with the term DHEA?

5 A. I am.

6 Q. What is that?

7 A. It is dehydroepiandrosterone.

8 Q. What effect can that have on a racehorse?

9 A. It is pre-testosterone compound. So when administered, it
10 is converted into testosterone.

11 Q. And you've already testified that increased testosterone
12 can improve a horse's race performance?

13 A. Yes.

14 Q. Can you tell us in what ways?

15 A. So I think the easiest way to understand would be the
16 difference between a Filly and a Colt. So the Colt being
17 intact. Stallions or intact males, generally are heavier, more
18 muscle, larger horses than the Fillies.

19 So, occasionally more testosterone is administered
20 even to intact males. It certainly is used in Fillies and
21 Jeltrin to improve the production of testosterone. Making
22 these horses larger, fitter, and it also has some effects on
23 mentation, so making them particularly more aggressive which
24 some may interpret to be as a better racehorse.

25 MS. MORTAZAVI: Ms. Jung, if we can turn back to that

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Cole - Direct

1 page and go to page 6 of Government Exhibit 711. I'd like to
2 look at item number 17 which is Equifactor, and again I'll be
3 reading portions of this out loud.

4 "The peptide was studied for years and the human
5 version contains a carry molecule that is easily detected.
6 Since the molecule is altered, the labs could never detect
7 unless a snitch turned a bottle in and the racing authorities
8 decided to make a test. This is highly unlikely, but a
9 possibility."

10 BY MS. MORTAZAVI:

11 Q. Dr. Cole, you testified previously that you have worked on
12 developing drug tests for novel performance enhancing drugs; is
13 that right?

14 A. That's correct.

15 Q. Why have you engaged in that work through the racing
16 laboratory?

17 A. For our line of business, whenever a new drug is detected
18 and we start to test for it, we certainly recognize that those
19 who want to not follow the rules can go out and seek the next
20 new, better drug, something different that can evade our
21 ability to detect them, so it's a constant -- constant
22 improvement plan within the laboratories to try to find new and
23 novel compounds that are being administered to the horses.

24 Q. And if someone were to turn a bottle of a particular drug
25 into your testing laboratory, would that facilitate your

M53BGIA6 Cole - Direct

1 ability to design a drug test?

2 A. Yes, that would be the holy grail of the ability to detect
3 new substances that are being abused.

4 Q. Can you explain?

5 A. Then you would have to not be looking in a urine or a serum
6 sample collected from a horse, but you actually know what that
7 molecule is in a very high concentration, and you're able to
8 develop a test directly from the molecule itself.

9 MS. MORTAZAVI: Ms. Jung, if we could turn to the last
10 page of Government Exhibit 711, that's item number 19 on the
11 list, which is serenity sedation.

12 And once again I'll read out portions of this and ask
13 you sos question, Dr. Cole.

14 "It's an anti-anxiety for the most part. Takes away
15 stress without affecting performance. Typically 5-10 cc IV
16 four to six hours before event."

17 BY MS. MORTAZAVI:

18 Q. Dr. Cole, have you studied the affect of sedatives on
19 racehorses?

20 A. Yes, I have.

21 Q. Can those improve a horse's race performance?

22 A. Yes. Somewhat counterintuitive, but particularly in very
23 young horses first starting out in racing, one of the issues
24 that they have is anxiety or stress associated with race day.

25 When a horse first goes out on the track, first few

M53BGIA6

Cole - Cross

1 time they race, there's a crowd, there's a lot of horses and
2 activity, and the horses could become very nervous.

3 So a small amount of sedative something to, quote,
4 unquote, take the edge off the horse, can actually improve the
5 horse's performance, rather than thinking about a sedative not
6 being performance enhancing. It actually can, we believe,
7 help the horse race.

8 Q. And you've already testified I believe Dr. Cole that the
9 most strenuous event a racehorse will face is the race?

10 A. That's correct.

11 MS. MORTAZAVI: No further questions, your Honor.

12 THE COURT: Mr. Fasulo.

13 MR. FASULO: If the government can put up 711 for me,
14 please.

15 CROSS-EXAMINATION

16 BY MR. FASULO:

17 Q. Good afternoon, Doctor.

18 A. Good afternoon.

19 Q. Doctor, first of all, how many years of studies did you do
20 postcollege graduate to get to where you are today?

21 A. Official training, probably about 14.

22 Q. Let me ask you, you had a chance to review these products
23 prior to coming here today, correct?

24 A. Yes.

25 Q. And you looked at this entire list, correct?

M53BGIA6

Cole - Cross

1 A. Correct.

2 Q. Number one through -- if we can just skip through the page
3 1 through 19, correct?

4 A. Yes.

5 Q. And you did an analysis based on what you read here and
6 your background of these items, correct?

7 A. Correct.

8 Q. You didn't do a chemical analysis, however, correct?

9 A. I did not do a chemical analysis.

10 Q. There was no looking into what compounds were actually in
11 any of these products, correct?

12 A. That is correct.

13 Q. And you based your analysis on your past experience with
14 the names that they are given, correct?

15 A. The names they're given and the description of what they
16 produce.

17 Q. And the description that were put into the items, correct?

18 A. Correct.

19 Q. And you weren't aware of any chemical analysis done on any
20 of these products, were you?

21 A. I am not.

22 Q. And you would agree that your testimony then is based on
23 what you read, but not necessarily what the compounds were
24 actually composed of?

25 A. That is correct.

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Cole - Cross

1 Q. I'd like you to look at what's been marked as Government
2 Exhibit 709. I think at some point in the testimony you were
3 asked to take a look at that.

4 Do you remember seeing this at all during the
5 testimony?

6 A. Yes, I do.

7 Q. Did you have this during the course of your analysis in
8 this case?

9 A. I did not.

10 Q. You did not.

11 Prior to coming here today to testify, you had met
12 with the government, right?

13 A. Correct.

14 Q. And the government had instructed you on certain things
15 that they'd like you to do in regard to your testimony,
16 correct, certain research, certain conclusions that they would
17 like to figure out if you can reach, correct?

18 Let me rephrase that.

19 The government asked you to evaluate certain
20 documents, correct?

21 A. Correct.

22 Q. And the government asked you to give your opinions on those
23 documents; is that fair to say?

24 A. That is correct.

25 Q. And then they asked you to give reports regarding those

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Cole - Cross

1 opinions, correct?

2 A. That is correct.

3 Q. And you did all of that, right?

4 A. Correct.

5 Q. And in the process, you looked at both the information the
6 government gave you, correct?

7 A. Yes.

8 Q. And you used your own information base as well, correct?

9 A. Correct, access to published literature.

10 Q. And you used your prior experience and expertise in doing
11 that analysis?

12 A. Correct.

13 Q. And you were also a licensed vet you stated, correct?

14 A. That's correct.

15 Q. And you're licensed in the State of Florida, correct?

16 A. That's correct.

17 Q. So I'd like you to look at this document which is 709. I
18 want to take you through a couple of the categories in 709.
19 I'd like to begin with the first one. You see that category.
20 If we can highlight that for the doctor.

21 You see this list of items?

22 A. Yes, I do.

23 Q. Are you familiar with any of the items as written here?

24 Take your time.

25 A. Quite a few of them that's written here.

M53BGIA6

Cole - Cross

1 Q. Would you agree some of the items here are vitamins?

2 A. Yes.

3 Q. And some of the items here are prescription medications,
4 correct?

5 A. Some of these items should only be distributed as
6 prescription products.

7 Q. And would you also agree with me when it says adrenals
8 thyroid-glands, would you agree that these items have to do
9 with that heading, if you can give us an opinion on that?

10 A. Some of these would be related to adrenal thyroid-gland if
11 that's what you're referring to?

12 Q. Yes.

13 A. Some of them would not.

14 Q. And if we can go to the next part of this document which
15 says anti-inflammatory, relax pain.

16 You see this list?

17 A. I do.

18 Q. And can I draw your attention to what I marked. You see
19 the little blue line going down there?

20 A. Yes.

21 Q. You see the word "Banamine"?

22 A. Yes.

23 Q. And flunixin?

24 A. Yes.

25 Q. Can you tell me, are you familiar with those products?

M53BGIA6

Cole - Cross

1 A. Yes.

2 Q. And are you familiar with what those products can do in
3 relationship to horses?

4 A. Yes. They are actually the same product. Banamine is a
5 brand name for the drug name flunixin meglumine. They are
6 commonly used non-steroidal anti-inflammatory drugs. And
7 similar to with humans, something like Aspirin or Ibuprofen
8 would be their effects.

9 Q. Would you agree that there are legitimate reasons for a
10 veterinarian or for somebody to use this on a horse?

11 A. Yes.

12 MR. FASULO: If we can go to the next page of the
13 document, please. If we can highlight antibiotic and lung
14 repair.

15 Q. You see under the words antibiotic and lung repair on
16 what's been marked in evidence as Government Exhibit 709. You
17 see that?

18 A. I do.

19 Q. Again to be fair, doctor, you haven't had an opportunity to
20 do an analysis on these items prior to coming here and
21 testifying?

22 A. That is correct.

23 Q. And I'd like to take your attention down on this document
24 to where I marked with the blue. Are you familiar with that
25 drug?

M53BGIA6

Cole - Cross

1 A. I am.

2 Q. And what is that drug do?

3 A. It is an antibiotic.

4 Q. Would it be your testimony here today that that drug has a
5 legitimate purpose for the treatment of horses under the proper
6 conditions?

7 A. Correct, yes, I would.

8 Q. And as you look at the drugs, if you can just give yourself
9 a moment to look at the drugs in column one and column two?

10 A. Yes.

11 Q. I asked you to look at the drugs I'm marking right here,
12 and I'm marking it only cause it's easier to mark it than to
13 try to pronounce it.

14 Are you familiar with that item?

15 A. I am.

16 Q. What is that?

17 A. Neomycin is another antimicrobial drug.

18 Q. What would be the use of that item in relationship to
19 treating horses?

20 A. It is a very -- it would be a very unusual drug to
21 administer orally to horses because it is can be very toxic.
22 It is generally more often used as a topical application.

23 Q. And if we look down one after that, Neopolybac eye
24 ointment, are you familiar with that?

25 A. That would be more of what I was just referring to,

M53BGIA6

Cole - Cross

1 Neomycin and Polysporin, Bacitracin, so an eye ointment more
2 for administration if a horse has a scratched or irritated eye.

3 Q. That would be the more normal way of treating it rather
4 than through the oral method, correct?

5 A. Correct.

6 Q. And that would be your judgment as a vet whether to use one
7 or the other, correct?

8 A. Correct.

9 Q. After you look at the horse, evaluated its condition, and
10 had the history of that horse, correct?

11 A. Correct.

12 Q. I'd like to go to now the next page, please.

13 Doctor, I'd like you to look at what, if I can
14 highlight this, please.

15 If you can take a look at the drugs listed here?

16 A. Yes.

17 Q. If I could draw your attention specifically, let's say to
18 the one I marked, Vitamin K?

19 A. Yes.

20 Q. Does that drug have something to do with bleeding and
21 breathing?

22 A. Vitamin K is a component of the clotting cascade, so it is
23 important to be present for a horse to have adequate clotting.

24 Q. Is that something that you can buy over-the-counter or is
25 it prescription if you know?

M53BGIA6

Cole - Cross

1 A. I suspect that it is readily available.

2 MS. MORTAZAVI: Objection.

3 THE COURT: Sustained. Do you know, doctor?

4 THE WITNESS: No.

5 BY MR. FASULO:

6 Q. Doctor, do you have an opinion -- do you have a basis for
7 knowing whether vitamins are readily available over-the-counter
8 or not readily available as it relates to horses?

9 A. Vitamins are readily available over-the-counter.

10 Q. I'd also like you to look here at something called this RX
11 Bleeder and the bleeding paste. You see those?

12 A. I do.

13 Q. Are you familiar with those items?

14 A. I am not.

15 Q. Are you familiar with items known as bleeding paste?

16 A. I'm aware of many items that are listed for sale with these
17 types of trade names.

18 Q. And during the course of your experience and expertise and
19 research, have you looked into bleeders?

20 A. We have done -- I've participated in research projects
21 evaluating exercise induced pulmonary hemorrhage in horses.

22 Q. Would they be commonly known as bleeders?

23 A. Yes.

24 Q. You so you did do that research, correct?

25 A. Yes.

1 Q. Is there a legitimate purpose for the prescribing of what
2 we would call in laymen's terms "bleeders"?

3 A. I don't think I understand the question.

4 Q. As a vet, would it be proper for a veterinarian to
5 prescribe this medication to a horse to address certain
6 conditions?

7 THE COURT: What medication?

8 MR. FASULO: Bleeders as she stated.

9 A. If you're referring to these specific products?

10 Q. I'm not referring to any of the specific products.

11 In your experience and expertise as looking at
12 bleeders, I'm asking you whether they have a legitimate purpose
13 in diagnosis and treatment as a veterinarian?

14 A. No.

15 Q. When would somebody use a bleeder in your experience, in
16 your research what did you find?

17 A. The difficulty I'm having is I don't know what a bleeder
18 medication is.

19 Q. I'm asking you --

20 THE COURT: I think you're misstating her testimony.

21 Q. You stated you did some research in this area, correct?

22 A. I studied the pathophysiology of that condition in horses.

23 Q. And did you also study what treatment would be appropriate
24 if a horse suffered that deformity or injury or condition?

25 A. I personally have not conducted any studies on the efficacy

M53BGIA6

Cole - Cross

1 of any drugs on the condition of bleeding or exercise induced
2 pulmonary hemorrhage.

3 Q. Are you aware as an expert of the efficacy any drugs that
4 directly have an effect on that condition?

5 A. I am.

6 Q. And what drugs would have an affect on that condition?

7 A. The only drug that I have seen evidence to support the
8 efficacy for the treatment or prevention of EIPH in horses is
9 furosemide.

10 Q. Is that a condition that exist -- what is your
11 understanding of that as it relates to horses?

12 Is it prevalent in horses or not prevalent in horses?

13 A. EIPH is prevalent in all horses that exercise to a very
14 intense extent.

15 Q. Would you consider racing horses to be in that category?

16 A. Yes, I would.

17 Q. I'm going to skip to page 4 if I may. I'd like to draw
18 your attention to the section there.

19 Are you familiar with fluids, electrolytes and
20 drenching?

21 A. Yes, I am.

22 Q. If you can take at look at these items.

23 A. Yes.

24 Q. I draw your attention to this itemize mark. It says S
25 saline fluids?

1 A. Yes.

2 Q. Are you familiar with that?

3 A. Yes.

4 Q. What would saline fluids be used for in the treatment for
5 the addressing of conditions within a horse if you know?

6 A. Dehydration.

7 Q. Would that be also true of electrolytes for dehydration?

8 A. Yes.

9 Q. How would both saline fluids or electrolytes be
10 administered to a horse to address dehydration if you know,
11 what are the ways?

12 A. The most efficient and particularly if a horse is severely
13 dehydrated would be an intravenous infusion of saline, a
14 sterile saline solution.

15 If the horse is mildly dehydrated and stable, you
16 could administer -- and you felt it was still electrolyte
17 imbalanced -- you could administer -- give him access to water
18 that had been supplemented with electrolytes.

19 Q. I'd like to turn to page -- I think it's page 10.

20 I'd like to highlight this section, please.

21 I'd like you to look at the items that are listed here
22 under the subheading tie-up muscle.

23 Does tie-up have any meaning to you as a veterinarian
24 or somebody who studies racehorses?

25 A. Yes.

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Cole - Cross

1 Q. What does that mean?

2 What do you understand that to mean?

3 A. Some horses in particular seem to be subject to a disease
4 of the muscles that will cause them to cramp and become very
5 painful, either through anxiety or following work, particularly
6 if it's a work that's more intense than the horse has been
7 trained up to. We typically refer to that as horse being tied
8 up.

9 Q. You see this list over here, sodium bicarbonate, are you
10 familiar with that item?

11 A. I am.

12 Q. What is that?

13 A. Sodium bicarbonate is a buffering agent.

14 Q. Is it a medication or what are the components of the sodium
15 bicarbonate?

16 A. It is a chemical.

17 Q. And what would be the use of the sodium bicarbonate as it
18 relates to a horse?

19 A. So if the horse was in -- it depends on the situation of
20 the horse. If the horse was say in surgery for colic, severity
21 acidotic you might administer sodium bicarbonate to correct
22 that imbalance.

23 It has been administered as a prerace administration
24 for performance enhancing purposes as well.

25 Q. This item here Robaxin methocarbamol, are you familiar with

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Cole - Cross

1 something --

2 A. I am.

3 Q. What is that?

4 A. It is a very mild muscle relaxant.

5 Q. What would be the purpose of a veterinarian or somebody
6 using this on a horse?

7 A. There are some individuals that believe that it helps in
8 the prevention or treatment of tying up in a horse.

9 Q. You don't agree with that?

10 A. I'm not a fan. I'm unaware of any literature to support
11 the use of Robaxin in tying up.

12 Q. You will agree that certain vets would use this at certain
13 times?

14 A. I would agree.

15 Q. Finally, last thing, are you familiar with the term Lacto
16 15 here?

17 A. I am not.

18 Q. How about magnesium sulfate?

19 A. Yes, I am.

20 Q. And what is magnesium sulfate?

21 A. Similar to sodium bicarbonate, it is both magnesium and --
22 is an electrolyte. There are very rarely horses that are
23 deficient in magnesium, but it is a required electrolyte that
24 is regulated in a horse.

25 Q. And how is it usually administered to a horse?

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Cole - Cross

1 A. Usually intravenously.

2 MR. FASULO: May I have a moment.

3 THE COURT: Sure.

4 Q. Now, you were asked during your direct examination on the
5 idea of the most strenuous exercise a horse would get, and I
6 believe your testimony was, it was probably in the races,
7 correct?

8 A. That's correct.

9 Q. You would agree that there are also strenuous exercises
10 that a horse would engage in before races in training?

11 A. I would agree with that statement.

12 Q. And you would agree that conditions can come up during the
13 time of training a horse as well as during the time of racing
14 the horse, correct?

15 A. That's correct.

16 MR. FASULO: If I can have one moment?

17 THE COURT: Yes.

18 MR. FASULO: Doctor, thank you for your testimony here
19 today. No further questions.

20 THE COURT: Thank you.

21 MS. MORTAZAVI: Brief redirect.

22 If I may approach the witness and hand her a copy of
23 Government Exhibit 711 in hard copy.

24 THE COURT: Yes.

25 MS. MORTAZAVI: I'll just show it to Mr. Fasulo.

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Cole - Redirect

1 REDIRECT EXAMINATION

2 Q. Good afternoon again, Dr. Cole.

3 Do you recall being asked some questions about
4 Government Exhibit 709, which was a few sheets of paper that
5 just had rows of various different drugs and other items listed
6 on it?

7 A. Yes, I do recall.

8 Q. Do you recall being asked about several categories within
9 that itemized list?

10 A. Yes.

11 Q. And do you recall stating that some of the itemized items
12 were prescription drugs?

13 A. Correct.

14 Q. Would you expect a non-veterinarian to sell those
15 prescription drugs?

16 A. It's possible.

17 Q. Would you expect a non-veterinarian to legally sell those
18 prescription drugs if there was no prescription?

19 MR. FASULO: Objection, Judge, as to legally.

20 THE COURT: As to what?

21 MR. FASULO: The word "legally."

22 THE COURT: Sustained.

23 Rephrase your question.

24 Q. In your experience, Dr. Cole, are most prescription drugs
25 typically being distributed when there is a prescription for

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Cole - Redirect

1 them?

2 A. Yes.

3 Q. And I believe you testified earlier that in the State of
4 Florida and in your work through the Florida Racing Laboratory
5 that you have become familiar with the rules and regulations in
6 the State of Florida, correct?

7 A. Correct.

8 Q. And from your familiarity with those rules, are trainers
9 permitted to have prescription drugs if they have no
10 prescription?

11 A. No, they are not.

12 Q. You were also asked if there were certain drugs that had
13 legitimate medical or therapeutic purposes, do you recall those
14 questions?

15 A. I do.

16 Q. Can certain drugs be used to treat a sick animal?

17 A. Yes.

18 Q. And can those same drugs also be abused to enhance the
19 performance of a healthy animal?

20 A. Yes, it's possible.

21 Q. Do you recall being asked questions about a few different
22 drugs. I'm going to list them starting with penicillin. Do
23 you recall being asked about that?

24 A. Yes, I do.

25 Q. And do you recall being asked about phenylbutazone?

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Cole - Redirect

1 A. Yes, I do.

2 Q. Do you recall being asked about Banamine?

3 A. Yes, I do. I actually don't know if phenylbutazone was
4 actually listed or discussed.

5 Q. Do you recall being asked about Bute?

6 A. Not particularly, but Banamine.

7 Q. Penicillin and the Banamine you recall.

8 And those items were on Government Exhibit 709,
9 correct?

10 A. Yes.

11 Q. Were any of those items on Government Exhibit 711, which we
12 reviewed during the course of your testimony today?

13 A. No, they were not.

14 Q. You were also asked about something called neomycin oral.
15 Do you recall that? I may be mispronouncing it and you can
16 correct me.

17 A. The neomycin, yes.

18 Q. Thank you. Do you recall your testimony that that was
19 toxic?

20 A. It can be, yes.

21 Q. You also testified about something called furosemide
22 correct?

23 A. Correct.

24 Q. And that treats bleeding?

25 A. Correct.

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Cole - Redirect

1 Q. Is there an improved version of furosemide?

2 A. Furosemide is approved. There are several formations. It
3 is approved by the Food and Drug Administration for use in
4 humans.

5 Q. And that is the commercially available treatment for horses
6 with EIPH that you're familiar with, correct?

7 A. Correct.

8 Q. And that already exists in the market, correct?

9 A. Correct.

10 Q. You were also asked about sodium bicarbonate, do you recall
11 those questions?

12 A. I do.

13 Q. Can sodium bicarbonate be administered for performance
14 enhancing purposes?

15 A. No.

16 Q. Have you heard of the term "milk shaking"?

17 A. That would be the administration of sodium bicarbonate in
18 terms of a milk shake.

19 Q. With respect to drug tests, are familiar with TC02 levels
20 in the context of drug testing?

21 A. Yes, I am.

22 Q. Is that something that is tested for?

23 A. Yes. Generally before the race, blood samples are drawn,
24 and there's a maximum permitted level of TC02; in other words,
25 sodium bicarbonate would raise the PH, and thereby the

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Cole - Redirect

1 concentration of CO2 in the blood, and so it's tested for it to
2 prevent the administration of the sodium bicarbonate prerace.

3 Q. So there is testing conducted for sodium bicarbonate as
4 part of drug testing?

5 A. Yes.

6 Q. And why is that?

7 A. Because that's actually one of the few drugs that there are
8 substances that there is evidence that alkalizing an athlete
9 prior to competition can improve performance.

10 Don't know that's been proven in horses, but it's
11 certainly well-documented in humans.

12 Q. So in humans, sodium bicarbonate can be used to enhance
13 performance?

14 A. Correct.

15 Q. And sodium bicarbonate is something that you've tested for
16 in the body of work that you've conducted on behalf of the
17 racing laboratory, correct?

18 A. Correct.

19 Q. And is that something that is restricted for use of
20 racehorses in State of Florida?

21 A. It is not permitted to administer any type of drench or
22 nasogastric tube which is typically how that's administered or
23 any alkalizing agent within 24 hours of the race.

24 MS. MORTAZAVI: No further questions, your Honor.

25 THE COURT: Thank you.

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Cole - Redirect

1 Any recross?

2 MR. FASULO: No recross.

3 THE COURT: All right.

4 Dr. Cole, thank you very much. You're excused with
5 the thanks of the Court.

6 (Witness excused)

7 THE COURT: Ms. Mortazavi.

8 MS. MORTAZAVI: Thank you, your Honor. I have a
9 stipulation I'd like to read into the record.

10 It's been marked as Government Exhibit 9018, and I'm
11 going to skip the preliminary portion of this stipulation which
12 is identical to the past stipulations that we've read into the
13 record.

14 THE COURT: Are you going to display this?

15 MS. MORTAZAVI: Not until I've offered it into
16 evidence. I believe there may be a hard copy to hand up to the
17 Court if the Court would like a copy.

18 THE COURT: I would. Thank you.

19 MS. MORTAZAVI: And I'll impose on my colleague
20 Mr. Gianforti.

21 THE COURT: Thank you. Ms. Mortazavi.

22 MS. MORTAZAVI: If called to testify at trial, a
23 representative of the relevant state agencies that regularly
24 maintain public records reflecting the identities of licensed
25 veterinarians in each respective state would testify that Seth

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Cole - Redirect

1 Fishman did not hold a veterinarian license in the following
2 jurisdictions from 2000 to in or about April of 2020:

3 Alabama, Arkansas, California, Connecticut, the
4 District of Columbia, Georgia, Illinois, Iowa, Kentucky, Maine,
5 Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada,
6 New Hampshire, New Mexico, North Carolina, Oregon, Rhode
7 Island, South Carolina, Tennessee, Texas, Vermont, Virginia,
8 Washington, West Virginia, Wisconsin.

9 It is further stipulated and agreed by and between the
10 parties that this stipulation which is Government Exhibit 9018
11 may be received in evidence at trial, and the government offers
12 Government Exhibit 9018.

13 THE COURT: It will be received in evidence and this
14 stipulation or agreement between the parties as just read into
15 the record is evidence that you may consider in this case.

16 (Government's Exhibit 9018 received in evidence)

17 MS. MORTAZAVI: May I have a moment, your Honor.

18 THE COURT: Sure.

19 MS. MORTAZAVI: Your Honor, at this time the
20 government rests.

21 THE COURT: At this point, ladies and gentlemen, we're
22 going to break for the day.

23 The government has concluded its presentation of
24 evidence. We'll resume tomorrow morning at 9:45. If you could
25 please leave your notebooks on your chair or in the jury room

1 and I remind you that when you go home please do not speak to
2 anyone including your family members about this case.

3 Please don't speak to each other about the case on the
4 way out, and please do not conduct any research. If by any
5 chance anybody should approach you about the case or you should
6 hear anything inadvertently about the subject matters of this
7 trial, you need to let me know about that through my courtroom
8 deputy Ms. Dempsey.

9 Thank you all very much, and I wish everyone a good
10 evening.

11 (Continued on next page)

12 (Jury not present)

13 THE COURT: Anything for the record.

14 MR. FASULO: Under Rule 29, we have a motion for a
15 trial order of dismissal.

16 THE COURT: Ms. Mortazavi, do you wish to be heard?

17 MS. MORTAZAVI: I'm happy to respond to any questions
18 the Court has, I think the record is clear that the government
19 has sustained its burden at least as to this point.

20 THE COURT: The motion under Rule 29 is denied.

21 For the record, obviously there is a heavy burden that
22 a defendant faces on a Rule 29 motion.

23 On such motion, the Court must view the evidence in
24 the light most favorable to the defendant, crediting every
25 inference that could have been drawn in the government's favor

1 and deferring to the jury asses ment of witness credibility and
2 its assessment of the weight of the evidence.

3 The evidence is sufficient for the case to go to the
4 jury and could support a verdict of reasonable doubt or no
5 reasonable doubt. Both are equal possibilities at this stage.
6 So the motion is denied.

7 All right.

8 Anything else for the record?

9 MR. FASULO: Yes, Judge, we do have a defense case.

10 THE COURT: Yes. Okay.

11 And tomorrow morning you will be calling?

12 MR. FASULO: Tomorrow morning we plan on calling our
13 witness which will be Ms. Giannelli.

14 THE COURT: Is Ms. Giannelli your only witness?

15 MR. FASULO: She is our only witness.

16 THE COURT: All right. Thank you.

17 Anything from the government at this point?

18 MR. FASULO: Just so the record is clear, obviously
19 this is Ms. Giannelli's right to either take the witness stand
20 or not. We have obviously opened on that. We plan on her
21 taking it. I want to make it clear that it will be her
22 decision, again, to make that and she will make that at that
23 time, but it's our intention 100 percent that she will be on
24 the witness stand tomorrow.

25 THE COURT: Absolutely.

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Cole - Redirect

1 Ms. Giannelli, you do understand that is ultimately
2 your decision whether to testify or not to testify, and that
3 you have no obligation whatsoever to do so. All right.

4 Anything else from the government?

5 MS. MORTAZAVI: I'd like to forecast, your Honor, that
6 it's possible, based on the substance of the defendant's
7 testimony, that the government might have a rebuttal case.
8 It's very hard to say now not knowing what it is she will
9 testify to, I want to make sure the Court is aware and the
10 defense counsel is aware.

11 THE COURT: And I assume you would talk with
12 Mr. Fasulo before any witness is called to the stand about what
13 your witnesses would be testifying about.

14 MS. MORTAZAVI: Certainly, your Honor.

15 THE COURT: All right.

16 MR. FASULO: In that regard, I'd like the Court to a
17 scheduling issue for us, because I understand even if the
18 defendant begins her testimony tomorrow we could have a charge
19 conference, it would be my preference that we sum up on
20 Thursday rather than trying to put everything together
21 tomorrow. And the government now tells me that there may be a
22 rebuttal case, I think just for clarity it would be good to
23 start fresh with the jury on Thursday.

24 THE COURT: All right. Let me just talk about
25 scheduling with you. Before we get there, I want to just talk

1 about a brief observation about the jury charges.

2 First, I think you need to add a proposed charge with
3 respect to demonstratives because there were -- I think there
4 were two offered into evidence yesterday. I gave a brief
5 instruction at the time which I think basically does the job,
6 but that was ad lib.

7 I do have a prior submission from the parties before
8 there was a mistrial, so you can pull that or you can take a
9 look at Sands and propose something to me.

10 The other thing I want to mention -- well, two things.
11 One, I'm working my way through what you have jointly proposed.
12 There are, as I noted, a couple of areas of disagreement. One
13 of them I will need ultimately a decision about whether certain
14 things are applicable in this case, specifically whether you're
15 going to be including a request for a lesser-included offense
16 because some of your charges become irrelevant.

17 MR. FASULO: Judge --

18 THE COURT: I'm not asking you to answer right now.

19 MR. FASULO: I want to give the Court a heads of where
20 I'm going. I have not formally made a decision if I'm going to
21 ask for it. If I had, I let the Court know and I would work on
22 it. But I have thought about that charge as well, and
23 therefore I do understand it impacts on what we currently have
24 as a charge.

25 THE COURT: I understand that and obviously --

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Cole - Redirect

1 MR. FASULO: I'm inclined that I'm not probably going
2 to ask for it. It will depend on her testimony tomorrow.

3 THE COURT: You said you're inclined that you're not
4 probably going to ask for it.

5 MR. FASULO: It will depend on how the testimony is
6 elicited tomorrow, what the rebuttal case is, how she answers
7 the question on cross-examination and that's really going to
8 dictate my request.

9 THE COURT: That makes good sense. I'm just flagging
10 issue. The final issue I want to flag for you at this point is
11 your request to charge number six.

12 You have it labeled conspiracy to commit drug
13 misbranding and drug adulteration and then you began with
14 saying the charge is, and you quote four paragraphs from the
15 indictment.

16 I find that completely pointless to be perfectly
17 honest for me to read into the record to the jury subsections
18 of a statute. That's meaningless to a jury, so I would like
19 you to go back and talk to each other about whether those four
20 paragraphs should be eliminated altogether, and we just begin
21 with the paragraph that starts with conspiracy and summarizes
22 and then breaks into each of the elements.

23 You have a prior request number five, summary of the
24 indictment, maybe that's sufficient, or maybe you want to agree
25 on a more full-some summary of the indictment. But for me to

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Cole - Redirect

1 read violation of Title 21, United States Code, Section 331,
2 352(a)(1)(A)5. That's just meaningless to a jury. It does not
3 assist them in understanding the law in any respect.

4 MR. FASULO: I understand the Court's request and I
5 will work with the government on that.

6 THE COURT: Those are my comments up to this point. I
7 also made some other editorial changes before we have the
8 charging conference we will try to give you a red line copy.
9 But I had asked you to go back and try to eliminate repetition
10 in here.

11 Just by way of example, request number one that you
12 gave me ends with the sentence: "You are to perform the duty
13 of finding the fact without bias or prejudice to any party."

14 Request number two begins: "You are to perform the
15 duty of finding the facts without bias or prejudice to any
16 party."

17 I would like not to repeat like that. All right. So
18 that's what I'm going through now to weed out, so that's just
19 to give you a heads up of where I'm going with things.

20 All right. Anything else for the record?

21 MS. MORTAZAVI: Not from the government.

22 THE COURT: Mr. Fasulo?

23 MR. FASULO: Nothing from the defense.

24 THE COURT: All right.

25 So I will see you all a little bit before 9:45. If

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Cole - Redirect

1 there's anything we need to talk about, let us know in advance,
2 otherwise I'll see you a little before 9:45 and be prepared to
3 start with the jury at 9:45 with the defense calling Ms.
4 Giannelli.

5 MR. FASULO: Judge, I had requested, I do have
6 something. I had requested just a general idea of what the
7 court's thoughts were in term of scheduling?

8 THE COURT: I'm fine with the defense's case tomorrow
9 and the rebuttal case, to the extent there is any. If we have
10 time, we'll then proceed to the charging conference. I'm fine
11 with, assuming we can accomplish all that tomorrow, putting
12 summations over to Thursday.

13 If there were ample time tomorrow afternoon, we'll
14 just adjourn that. Doesn't seem like it's likely to happen in
15 any event. Summations, plan for them on Thursday.

16 MR. FASULO: It would be my preference and I
17 appreciate that, your Honor.

18 THE COURT: I do have, just to give you a heads up, I
19 do have a VOSR hearing on Thursday morning at 8:30. I hope it
20 won't run more than an hour, but it might and we might have
21 things we need to finish with the jury charges.

22 Depending on where we're at tomorrow, we'll instruct
23 on what time to show up on Thursday morning, but you can plan
24 that summations will not happen tomorrow, but you need to be
25 ready on Thursday depending on the length of the government's

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Cole - Redirect

1 rebuttal case, if any, and the defense case.

2 Okay. All right. Anything else?

3 MS. MORTAZAVI: No. Thank you, your Honor.

4 THE COURT: Thank you. Have a good evening.

5 (Adjourned to May 4, 2022, at 9:45 a.m.)

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